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IN THE
UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,
PLAINTIFF,

versus

CIVIL ACTION NO. 2829

C. E. FORD, RAYMOND F. LEE,
KATIE KEAHEY, as Registrars
of Voters of Choctaw County,
Alabama; and STATE OF ALABAMA,

DEFENDANTS.

BRIEF IN SUPPORT OF
PLAINTIFF'S APPLICATION
FOR A PERMANENT INJUNCTION

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UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
)
)
 v.) CIVIL ACTION NO. 2829
)
)
)
 C. E. FORD, ET AL.,)
)
)
 Defendants.)
)
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I.

This action was brought by the Attorney General of the United States pursuant to 42 U.S.C. 1971 against the State of Alabama and the members of the Board of Registrars of Choctaw County, Alabama. The action seeks to enjoin the defendants from engaging in discriminatory acts and practices which have deprived Negro citizens of the United States of the right to register to vote without distinction

of race or color. The action also seeks specific relief and specific orders to insure the fair, non-discriminatory operation of the office of the registrars of Choctaw County, including an order requiring the defendants to register specific Negroes.

II.

THE PARTIES

The plaintiff is the United States of America. Its standing to bring this suit is established by 42 U.S.C. 1971(a) and (c), which provide in substance that whenever there are reasonable grounds to believe that any person has engaged in any act or practice which would deprive others of the right to vote without distinction of race, the Attorney General may institute an action for preventive relief including an injunction or other order.

The defendants are the State of Alabama and the members of the Board of Registrars of Choctaw County, Alabama -- C. E. Ford, Chairman; Raymond F. Lee, member; and Katie Keahey, member.

Raymond F. Lee and Katie Keahey have both served as members of the Choctaw County Board of Registrars continuously since November, 1959. From that date to the present three different persons have acted as the third member of the Board. E. J. Barber served from November, 1959 to August, 1961 when he was replaced by Roswell Doggett. Roswell Doggett served until November, 1962 and was replaced by C. E. Ford. Mr. Ford was substituted

as a defendant by order of this Court pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

The State of Alabama is made a defendant in this action under the provisions of 42 U.S.C. 1971(c) as amended by the Civil Rights Act of 1960.

III.

THE REGISTRATION REQUIREMENTS AND PROCEDURES

A. Registration Requirements and Procedures Under the Constitution and Laws of Alabama.

Under the Constitution of Alabama, Section 178, registration is a prerequisite to voting in any election in Alabama. Registration is permanent and persons who become registered to vote are not required to re-register except when they move from one county to another or are otherwise purged from the voter rolls.

The substantive qualifications for registration to vote under Alabama law are generally as follows:^{1/}

1. The applicant must be a citizen and 21 years of age or older;
2. The applicant must have resided in the State one year, in the county six months and in his voting precinct three months prior to any election in which he seeks to vote;
3. The applicant must be able to read and write any article of the United

^{1/} The requirements and procedures for registration and voting in Alabama are contained in Article VIII of the Constitution of Alabama of 1901, §§ 177-196; and in Title 17 of the Code of Alabama 1940, §§ 1-426.

(States Constitution which may
be submitted to him by the
board of registrars;

4. The applicant must be of good character and he must embrace the duties and obligations of citizenship;
5. The applicant is disqualified from voting if he is an idiot or insane person, or if he has been convicted of any of several enumerated crimes.

Persons are registered to vote by the county board of registrars appointed by the Governor, Auditor, and Commissioner of Agriculture and Industries. (Title 17, §21, Code of Alabama). Each board is to be composed of three members, but the duties of each board may be carried out by a majority or two members. (Title 17, §34, Code of Alabama).

In order to determine whether an applicant meets the requisite qualifications the board of registrars has the power to examine generally under oath all applicants for registration and to take testimony touching upon their qualifications. Each member of the board is authorized to administer the oath. (§186, Constitution of Alabama).

The constitution and laws of Alabama provide that each applicant shall be furnished by the board of registrars a written questionnaire, the form and contents of which shall be prescribed by the Supreme Court of Alabama.^{2/} The questionnaire is to be answered

^{2/} Prior to 1960 the order of the questions on the questionnaire remained standard on all application forms. In 1960 questionnaires which were prepared by the Supreme Court retained identical questions but the order in which they appeared varied. The application form used by the Choctaw County Board of Registrars reveal that these new questionnaires were first used in Choctaw County in August, 1961.

in writing by the applicant in the presence of the board without assistance. The purpose of this questionnaire is to aid the registrars in determining whether the applicant possesses the requisite qualifications. (Title 17, §31, Code of Alabama. See also §181 as amended by Amendment XCI, Constitution of Alabama).

There is incorporated in the questionnaire an oath to support and defend the Constitution of the United States and the Constitution of Alabama and a statement in such oath by the applicant disavowing belief in or affiliation with any subversive group. The answers to the questionnaire and the oath are to be duly signed and sworn to by the applicant before a member of the County Board of Registrars.

A copy of the four page application form and questionnaire used in processing applicants for registration to vote is set forth on the following four pages.

Although the Alabama Constitution and statutes which authorize use of a questionnaire provide that the questionnaire shall be answered in writing by the applicant without assistance, they do not provide that the applicant must answer every question, or that every question must be answered in a certain manner, or that the applicant must answer 30%, 50%, or 75% of the questions before he can become a registered voter. On the contrary, they provide that the questionnaire "shall be so worded that the answers thereto will place before the

10. Have you ever been legally declared insane:..... (a) If so, give details:.....
11. Give a brief statement of the extent of your education and business experience:.....
.....
.....
12. Have you ever been charged with or convicted of a felony or crime or offense involving moral turpitude:..... (a) If so, give the facts:.....
.....
13. Have you ever served in the Armed Forces of the United States Government:..... (a) If so, state when and for approximately how long:.....
14. Have you ever been expelled or dishonorably discharged from any school or college or from any branch of the Armed Forces of the United States, or of any other country:..... (a) If so, state the facts:.....
.....
15. Will you support and defend the Constitution of the United States and the Constitution of the State of Alabama:.....
16. Are you now or have you ever been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of any State of the United States by unlawful means:..... (a) If so, state the facts:.....
.....
.....
17. Will you bear arms for your country when called upon by it to do so:..... (a) If you answer no, give reasons:.....
.....
.....
18. Do you believe in free elections and rule by the majority:.....
19. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama:.....
.....
20. Name some of the duties and obligations of citizenship:.....
.....
.....
.....
- (a) Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict:.....
21. Give the names and post office addresses of two persons who have present knowledge of your present bona fide residence at the place as stated by you:.....
.....
.....

OATH

STATE OF ALABAMA COUNTY

Before me, , a registrar in and for said county and state, personally appeared

, an applicant for registration as an elector, who being by me first duly sworn deposes and says: I do solemnly swear (or affirm) that the foregoing answers to the interrogatories are true and correct to the best of my knowledge, information and belief. I do further solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that I do not believe in nor am I affiliated with, nor have I been in the past affiliated with any group or party which advocated or advocates the overthrow of the government of the United States or of the State of Alabama by unlawful means.

Sworn to and subscribed before me in the presence of the Board of Registrars this the day of , 19

Member of the Board of Registrars for County

SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH

STATE OF ALABAMA COUNTY

Before the Board of Registrars in and for said State and County, personally appeared

, an applicant for registration who being by me, (Full name of applicant)

, a member of said Board, first duly sworn as follows: "I do solemnly swear (or affirm) that in the matter of the application of for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is , and I have heretofore executed the "Application for Registration, Questionnaire and Oath" submitted to me by the above-named Board of Registrars.

In addition to the information given on said "Application for Registration, Questionnaire and Oath," I depose and state as follows:

1. I was previously registered in the following State and County in the years named

(If applicant has never been registered in Alabama or any other state, he should so indicate.)

2. I have never been convicted of any offense disqualifying me from registering.

(Board should call applicant's attention to Section 182, Constitution, and Title 17, Section 15, Code of Alabama 1940. If applicant cannot make foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and right to vote restored.)

3. My present place of employment is

4. I know of nothing that would disqualify me from being registered at this time.

REMARKS

(Signed)

(Name of Applicant)

Sworn to and subscribed before me this the day of , 19

(Member of County Board of Registrars)

ACTION OF THE BOARD

STATE OF ALABAMA _____ COUNTY

Before the Board of Registrars in session in and for said State and County personally appeared _____, (Name of Applicant)

who executed the foregoing application in the manner and form therein stated. The Board having further examined said applicant under oath, touching his qualifications under Section 181, Constitution of Alabama, 1901, as amended, and having fully considered the foregoing Application for Registration, Questionnaire, and Oath, and Supplemental Application for Registration, and Oath as executed, adjudges said applicant entitled to be registered and he was duly registered on this the _____ day of _____, 19____, in _____ precinct (or ward) in said county.

(Signed) _____ Chairman

(Signed) _____ Member

(Signed) _____ Member

(Note: The act of actually determining an applicant entitled to be registered is judicial. A majority of the Board must concur. A majority must be present. The power cannot be delegated. Each member present must vote on each application. Not until this is done may a certificate be issued the applicant.)

EXAMINATION OF SUPPORTING WITNESS

STATE OF ALABAMA _____ COUNTY

Before the County Board of Registrars in and for said State and County personally appeared

_____, (Name of Witness), who being first duly sworn as follows: "I solemnly swear (or affirm) that in the matter of the application of _____ for registration as an elector, I will speak the truth, the whole truth, and nothing but the truth, so help me God," testifies as follows:

My name is _____, My occupation is _____, I reside at _____, My place of business or employment is at _____,

The name of my employer is _____. I am a duly registered, qualified elector in _____ precinct (or ward) in _____ County in the State of Alabama. I have known the applicant

_____ (Give Applicant's name) for _____ years (or months). He is a bona fide resident at _____ and to my knowledge has resided thereat for the past _____ years (or months). I know of no reason why he is disqualified from registering under the Constitution and laws of Alabama enacted in pursuance thereof.

Space for further remarks

(Signed) _____

Sworn to and subscribed before me in the presence of the Board of Registrars this the _____ day of _____, 19____.

(Signed) _____ (Member of the Board)

Note: This application blank, when duly executed, on the final preparation of the "lists" of persons registered, must be delivered by the Board of Registrars to the Probate Judge of the County, whose duty it is to safely preserve it and all accompanying papers. See Title 41, Section 141, Code of Alabama, 1940.

registrars information necessary or proper to aid them to pass upon the qualifications of each applicant." (Title 17, §31, Code of Alabama). Neither has the Supreme Court of Alabama issued any written instructions for registrars with respect to the questionnaire involved in this case which would suggest that it must be filled out fully and perfectly; that some questions are more important or more vital than others; that each or any of the questions relates to substantive qualifications; or that any specific number or percentage of the questions must be answered correctly or perfectly. The application form and questionnaire contain no instructions to the applicants as to the manner in which it is to be filled out; as to which questions are more important than others, if any, or that the applicant will be denied registration if he does not answer some or all of these questions correctly. The matter of instructing applicants and of determining from the applicant's answers whether he is qualified is thus left to the discretion of the county registrars.

In the processing of applications for registration the board of registrars may make such rules and regulations as it deems proper for the receipt of applications for registration and the accomplishing in as expedient a manner as possible the registration of those entitled to register. (Title 17, §53, Code of Alabama).

The statutes provide for the times and places for conducting the registration of voters. In

general, for counties the size of Choctaw the boards of registrars are to meet on the first and third Mondays of each month, with five additional consecutive days in July, ten additional consecutive days in January in even numbered years, and extra registration days in each precinct in the fall of each odd numbered year.

B. Registration Requirements of the Choctaw County Board of Registrars.^{3/}

The current Board of Registrars of Choctaw County has not adopted any formal or written rules or regulations relating to the registration procedures or to the receipt of applications. The two registrars who testified at the trial stated that the Board follows certain procedures and standards which have remained constant since they took office in November, 1959.

According to the testimony of the registrars the registration process has been as follows: The Board meets on the first and third Mondays of each month at the Courthouse in Butler, Alabama. The Board is open on these days to receive applications for registration during the hours 8:00 a.m. until 4:00 p.m., with a short time out for lunch. The Board makes every effort to permit all persons desirous of doing so to apply for registration. On some occasions it has remained open until 6:00 p.m. for the receipt of applications from those waiting to apply. During busy periods the Board

^{3/} This section represents in essence a summary of the testimony of the two registrars who have been in office since November, 1959 -- Mrs. Katie Keahey and Mr. Raymond Lee. It will be seen from the proof detailed in subsequent portions of this brief that the procedures and requirements testified to by the registrars are not applied to all applicants.

has accommodated between twenty and thirty persons filling out application forms simultaneously.^{4/}

The registrars testified that the applicants are permitted to apply in the order of their appearance. When the applicant enters the office, a registrar fills in the applicant's name, the name of the county, and the registrar's name above the Oath on page three of his application form. The remainder of the form is blank when it is given to the applicant. According to the registrars, they tell the applicant he should answer all the questions on the first three pages of the form and that he should sign the Oath. No further instructions are given to the applicant and no oral oath is administered.

After the applicant has completed his application form he is told that he must have a supporting witness to appear before the Board and to fill out the Examination of the Supporting Witness portion on page four of the form. The supporting witness must be a registered voter in Choctaw County, must have known the applicant at least two years, and must be listed on the applicant's form as one of the references. The application form is held indefinitely in a pending status until the supporting witness appears. There is no limitation on the number of applicants for whom a person may act as the supporting witness.

^{4/} On February 1, 1960, the Board processed 72 applications for registration and on February 5, 1962, the Board processed 49 applications for registration. For examples of these busy days see Table B attached to this brief.

The registrars tell the applicants that they will send them a certificate of registration if they pass, and that if they do not hear from the Board within the next two weeks they will know they did not pass.

The Board generally reviews the application form immediately to determine whether the applicant will be accepted for registration. Registrar Lee was unable to recall any instance when an application form was not reviewed within two weeks after it was filed. Prior to November, 1962 the Board passed on some of the applications and issued certificates of registration to applicants while they were still at the office. The Board recently discontinued this practice.

The Board requires that the application form be filled out completely and properly before an applicant will be accepted for registration to vote. At least two registrars passed on each application. Applications are rejected for errors or omissions in the answers or information listed thereon.

The determination of whether an applicant will be accepted or rejected is based solely upon the information and answers contained on the applicant's application form. The Board does not go outside of the application form to determine whether the applicant is qualified for registration to vote, except occasionally where the applicant has been convicted of a disqualifying crime.^{5/}

^{5/} Neither of the registrars, Keahey or Lee, could recall more than one instance since they took office in November, 1959 where an applicant was rejected because he had been convicted of a disqualifying crime. This applicant was a white man and his application was withheld pending a restoration of his civil rights.

When it is determined by two members of the Board that the applicant should be registered, a registrar then dates the application on page three of the form and finishes filling out those portions which the registrar is required to complete on page three of the form - where the registrar states the oaths were sworn to and subscribed by the applicant before the registrar. A certificate of registration is filled out and sent or delivered to the accepted applicant.

When the applicant is rejected no notice of rejection is sent to him. The registrars usually write on rejected applications "Disqualified", "Unfinished", "Rejected", or "Incomplete".

Those applicants who have been rejected and who inquire of the Board what action was taken on their applications are merely told by the Board that they were rejected because they failed to fill out their application forms properly. The Board will not inform the rejected applicant as to what was wrong with his application - what was not properly completed on his form.

A rejected applicant is permitted to reapply for registration as often as he may desire to do so and without waiting any specified period of time between applications.

IV.

NEGROES HAVE BEEN SYSTEMATICALLY
EXCLUDED FROM PARTICIPATION IN
THE ELECTORAL PROCESS IN CHOCTAW COUNTY

A. Ninety-six percent of the Voters
of Choctaw County are White.

Choctaw County has a total of 3,873 registered voters of whom only 176 are Negroes.^{6/}

^{6/} These figures are obtained from the list of registered voters maintained by the Judge of Probate of Choctaw County as of February 5, 1963 (See Pl. Ex. 1). These figures accurately reflect those currently registered and qualified as registrants since Choctaw County completed a reidentification of voters in 1962 and those who failed to reidentify were removed from the current list of registered voters.

The list of registrants sets forth the date of registration and the race of each registrant. Many of the registrants are shown to have been registered as long ago as the early 1900's. The race of 317 persons out of 3998 on the list of current voters are not identified by the list. However, the race of 194 of these persons is set forth in other registration records covering the periods during which they were registered or in the 1956 to 1959 poll tax payment book. (See Table G)

The remaining 123 unidentified as to race are not included in the above chart showing the registered voters by race. Every inference points to these unidentified persons as being white persons. Of the 123 persons unidentified 85 were registered prior to 1952, including 68 who were registered prior to 1934. The records and testimony indicate that virtually no Negroes were permitted to register during these periods. (See page 57 infra and Table H). All of those persons whose race could not be identified by the current list of registrants and who were found in the registration books for those periods prior to 1959 were listed as white persons. Because all of these persons identified by the registration records prior to 1959 were white persons it is probable that were all the registration books available for these earlier years, they too would show the remaining 123 to be white persons.

Even if all of the 123 persons were assumed for argument purposes to be Negroes, still it would mean that only 8% of the Negroes of voting age are registered in Choctaw County and that 92% of the voters of Choctaw County are white.

Registered Voters of Choctaw County
as of February 5, 1963. 7/

	<u>Persons of Voting age</u>	<u>Persons Registered</u>	<u>Percent of Voting Age Registered</u>
White	5,192	3,697	71%
Negro	3,982	176	4%

Add to these figures the fact that 260 out of 302 Negroes who have applied for registration to vote in Choctaw County have been rejected by the current board^{8/} and the presumption of discrimination is conclusive.

7/ The figure for persons of voting age is derived from the census statistics for Choctaw County. (See Pl. Ex. 3) The figure for persons registered is derived from the List of registered voters maintained by the Probate Judge. (See Pl. Ex. 1) See also note 6 supra.

8/ Since no records of rejected applications prior to November 9, 1959, have been preserved, it is impossible to calculate the number of Negroes who have been denied registration in Choctaw County.

B. The Current Board of Registrars
has Accepted more than 99% of all
Applications Filed by White Persons
and has Rejected 86% of the Appli-
cations Filed by Negroes.

The current board has been in office since November 9, 1959. This board has registered 782 white persons and only 42 Negroes. The following chart shows chronologically the action of the current board.

ACCEPTED AND REJECTED APPLICATIONS OF
 WHITE AND NEGRO APPLICANTS 9/

November 9, 1959 through February 5, 1963

		Total Applied		Accepted		Rejected		Percent Rejected	
		<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>
1959	<u>W</u>	11		11		0		0	
Nov. 9	<u>N</u>		3		1		2		66.6
to Dec.									
31									
1960	<u>W</u>	332		332		0		0	
	<u>N</u>		20		1		19		95.0
1961	<u>W</u>	196		195		1		.5	
	<u>N</u>		115		17		98		85.2
1962	<u>W</u>	212		212		0		0	
	<u>N</u>		118		23		95		80.5
1963	<u>W</u>	32		32		0		0	
(to	<u>N</u>		0		0		-		-
Feb. 5)									
Date	<u>W</u>	1		0		1			
Un-	<u>N</u>		46		0		46		
Known									
Totals	<u>W</u>	784		782		2		.2	
	<u>N</u>		302		42		260		86.0

9/ This Table has been computed from figures obtained by counting the accepted and rejected application forms filed with the Board of Registrars between November 9, 1959 and February 5, 1963 (see Table B). In addition, there are four applications rejected by the Board, which were submitted by persons whose race cannot be determined from existing records. These four applications are not included in this chart. They were filed by Carlton Boykin (Pl. Ex. A-4018), Elmer P. Covington (Pl. Ex. A-4034); Robert J. Jenkins (Pl. Ex. A-4135) and Shirley R. Jenkins (Pl. Ex. A-4136).

Of the 233 applications filed by Negroes during 1961 and 1962 only 40 were accepted. Of the 408 applications filed by white persons during the same period 407 were accepted. If the board continued to register only 20 Negroes a year it would be 100 years before half the Negroes now of voting age could get registered.

When the current board took office in November, 1959 it found an extreme racial imbalance in voter registration in Choctaw County. This board, though it has had the opportunity to do so, has done nothing to correct this gross imbalance. Instead it has perpetuated and contributed to it.

No county is constituted such that a fair administration of the registration procedures could result in the registration of all the white applicants and virtually none of the Negroes.

V.

THE DEFENDANTS HAVE USED THE
APPLICATION FORM AS THE DEVICE
TO DISCRIMINATE AGAINST NEGROES.

The wholesale rejection of Negroes and registration of white persons has been brought about by the dual use of the application form. The Board determines the qualifications of all applicants solely on the basis of the information which appears on the executed application forms.^{10/} But the statistics showing the number of accepted white persons and rejected Negroes make it clear that the Board in almost every case is not satisfied with the information on the forms of Negroes but is satisfied with the information on the forms of white persons.

A. The Application Form is Used as
a Tricky Examination for Negroes
and as a Simple Application Form
for White Persons.

The rejected applications, 99% of which are of Negroes, invariably are marked with the words "Unfinished", "Rejected", "Disqualified" or "Incomplete". This is the Board's way of indicating that the application has been rejected for errors or omissions on the application form.^{11/} Were it not for this indication it would be almost impossible in many cases for a non-registrar to determine why the applications were rejected. Even the registrar on the witness stand who has been in office for over three

^{10/} See page 9 , supra.

^{11/} See page 10 , supra.

years and has passed on many hundreds of applications found it difficult and spent a great deal of the court's time in trying to determine what was wrong with the only rejected application he was questioned about.

1. Negro Applicants Are Rejected for Technical and Inconsequential Errors or Omissions on Their Application Forms; White Applicants are Not.

The Board uses the application form as a strict examination for Negroes.

Emma Harrison, a Negro, is a twenty-seven year old housewife who has lived in Choctaw County since 1939. She is a high school graduate and has applied for registration to vote three times with the current Board. Each time she had a supporting witness appear before the Board to attest to her bona fide residence and to the fact that the witness knows of no reason why she is disqualified from registering under the Constitution and laws of Alabama. Each time she was rejected.

Emma Harrison filled out and submitted an application for registration on November 9, 1961 (Pl. Ex. A-4090). This application was rejected and was marked by the Board "incomplete". This form was filled out perfectly except for two minor errors. Although her name appears at ten other places on her application, she failed to state her name in answer to Q. 1 - "State your name, the date and place of your birth and your present address." Also, she failed to list her precinct number in answer to Q. 9b(5b)^{12/}, "When did you become a bona fide resident of . . . [1939]. . .

^{12/} Throughout the brief, numbers in parenthesis refer to the number of the question on the example of the blank application form following page 5, supra.

Ward or Precinct" Her address appears three times on her application from which her precinct number could easily be ascertained.

She returned a second time and filled out an application form on November 20, 1961 (Pl. Ex. A-4091). Again, her application was rejected and was marked by the Board "Unfinished". Again she filled out a virtually perfect application form except for two minor errors which were different from those on her previous application. In answer to Q. 12(3) - "Give the names of the places, respectively, where you have lived during the last five years: and the name or names by which you have been known during the last five years:" - she listed her address "Yantley, Alabama" twice and failed to list her name. Her name appears at ten other places on her application. She also may have made an omission in her answer to Q. 16(7) - "Have you previously applied for and been denied registration as a voter: (a) If so, give the facts:". She answered the (a) part -- "I applied once, but I failed the test." She failed to answer the yes-or-no part of the question.

Emma Harrison returned to the office of the Board to try again to register to vote on July 7, 1962, (Pl. Ex. A-4092). Again she filled out a very good application form, but again the Board rejected her application and marked it "Unfinished". Again she made two minor errors. She did not state the date she became a resident of her precinct in answer to Q. 17b(5b); although she did state she became a resident of the state and of the county on "8-5-59", that

she had "lived in Yantley for the last five years." Also, her husband, a school teacher, in his oath as her supporting witness stated that she had lived in Yantley for the past 23 years. The other omission was her failure to sign the oath on page 3 of the form relating to supporting and defending the Constitution. However, she expressed the duties and obligations of citizenship as - "To respect its laws, defend the Constitution of the State of Alabama and support the Constitution of the United States"; she properly answered the six loyalty questions on page 2 of the application; and she had signed the same oath on her two previous applications. Unlike all other signatures required on the application form, there are no instructions or indications under this oath the applicant should sign other than a blank unidentified line, and, unlike her two previous applications, there are no check marks near the blank line under the oath.^{13/}

Emma Harrison still is not a registered voter in Choctaw County even though she has clearly demonstrated on three applications that she meets the substantive requirements to qualify for registration to vote.

Oliver Pringle is a seventy year old Negro man who has applied for and been denied registration in Choctaw County eighteen times. He is a farmer and owns twenty acres of land in Choctaw County. He has a third grade education but learned to read and write from studying at home after he became an adult. He reads

^{13/} Registrar Keahey testified those marks were to indicate where the applicant should sign.

a lot today, particularly the Bible, as he is a Sunday School teacher. It is clear from his eighteen rejected applications that he is able to read and write and that he can understand the application form. It is also clear that this seventy year old man possesses all of the substantive qualifications and none of the disqualifications to vote under Alabama law. He once offered five dollars to one of the registrars to help him register -- he must have thought after filling out numerous applications that something more was needed in order for Negroes to get registered.

One of his eighteen rejected applications was filed on January 8, 1962 (Pl. Ex. A-4215). A study of this application shows that he made two minor omissions: at the top of page one under "APPLICATION FOR REGISTRATION, QUESTIONNAIRE AND OATH", he failed to state the county, although the county appears at least seven times at other places in the application including the applicant's written answer to Q. 1; on page 3 under "SUPPLEMENTAL APPLICATION FOR REGISTRATION, AND OATH" he failed to answer Q. 1 (which appears to be a statement) "I was previously registered in the following State and County in the years named", although his application form on page 2, Q. 10a shows that he has been a resident of Choctaw County since 1893.

Lee Dressa Lancaster, a Negro, applied for registration to vote on June 18, 1962 (Pl. Ex. A-4173). She has lived in Choctaw County all of her life and is a high school graduate. Her application shows clearly that she possesses all of the substantive qualifications for registration to vote and indeed she was subsequently registered on her second application. The Board rejected her first application and marked it "Unfinished". She failed to state the names by which she has been known for the past five years in answer to Q. 3 (her name appears at ten other places on her form), and she failed to state the address of her husband in answer to Q. 2. In all other respects her application is perfect.

The extremes to which the grading of Negro applications is carried is demonstrated by the testimony of Registrar Lee. When asked why the application of Harvey Craig had been rejected (Pl. Ex. A-4035), Registrar Lee stated after long deliberation in analyzing the form that it was rejected because the applicant failed to answer number 2 of the Supplemental Application for Registration on page 3 of the form. This states - "2. I have never been convicted of any offense disqualifying me from registering." In actuality this is a statement and is not a question. It should be sufficient for the applicant to sign the supplemental application and oath as Craig did. Immediately following this statement number 2 on the form appears: "(Board should call applicant's attention to Section 182, Constitution, and Title 17, Section 15, Code of Alabama, 1940. If applicant cannot

make the foregoing statement, facts shall be ascertained and registration refused, unless fully pardoned and right to vote restored.)" Registrar Lee testified this was not called to the applicant's attention. The only possible omission in the applicant's form was when he left the third statement blank in the supplemental application - "3. My present place of employment is" but Mr. Lee stated this was not the reason for his rejection. One cannot conceive of a more strict examination or a more technical rejection.

These are but a few examples of the applications of Negroes which have been arbitrarily rejected for technical and inconsequential errors and omissions. Additional examples are detailed in Table D attached to this Brief. This table sets forth a detailed analysis of the applications of 45 rejected Negro applicants and cites 66 additional applications filed by Negroes which were also rejected for technical and inconsequential errors during the period the current Board has been in office. The applications of these rejected applicants show that the applicants possess the substantive qualifications prerequisite to voting under Alabama law.

That the use of the application form as an examination for Negroes is not a good faith use is demonstrated by the fact that the registrars will not tell rejected Negro applicants what they missed on their examination. The registrars will only tell rejected Negro applicants who inquire that they did not fill out their forms completely. They will not inform the

Negroes of the specific reasons or of the specific error or omission. Thus, Negro applicants can never learn from the registrars why they were rejected and what must be done differently to become a registered voter.

The practice of the Board in refusing to tell applicants why they were rejected is particularly significant when we realize that the Board knows that about 99% of all rejected applications are those of Negroes.

The Board ignores errors and omissions in the applications of white persons. Despite all the assistance the Board gives to white applicants,^{14/} 181 (23%) of the applications filed by white persons with the current Board contain errors and omissions which, if graded by the Negroes' standard, would have been rejected. Instead, they were accepted.^{15/}

Negro applicants are rejected for failing to answer correctly the grammatically confusing question: "Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama". Sixteen of the white applicants answered this question incorrectly and were, nevertheless, registered. No white person has been rejected for incorrectly answering this question.

^{14/} The assistance given to white applicants by the Board is discussed in detail, infra.

^{15/} See Table C attached to this brief which sets forth an analysis of 190 applications of white persons accepted by the current board.

Negroes are rejected if they answer incorrectly the confusing question - "Do you regard these duties and obligations [of citizenship] as having priority over the duties and obligations you owe to any other secular organization when they are in conflict?" Of the white applications accepted by the Board, twenty-one did not contain a proper answer to this question.

Many of the accepted application forms of white persons contain multiple errors and omissions. Under the grading procedure described by Registrars Lee and Keahey, these errors could not have gone unnoticed. For example, the application filed on February 1, 1960 by Betty Washington, who is a 27-year-old white woman, contains numerous errors and omissions. She failed to state the names by which she had been known for the last five years in answer to Q. 3; she failed to answer the question relating to whether she is now or has ever been affiliated with any group or organization which advocates the overthrow of the Government by unlawful means; she answered "No" to the question relating to whether she would bear arms for her country when called upon to do so; she answered "Yes", that she would give aid and comfort to the enemies of the United States Government or the government of the State of Alabama; and she failed to sign the oath on page 3 of the form (Pl. Ex. A-2325). This application was accepted by the Board.

Thomas Trotter, a white man, was also registered to vote when he applied on April 18, 1960. He has a fourth grade education and is 42 years old. He failed

to state the address of his wife; omitted the names by which he had been known for the past five years; failed to answer whether he had been convicted of any felony or crime involving moral turpitude; failed to answer whether he had been affiliated with any subversive organizations; and omitted the addresses of the references he listed. (Pl. Ex. A-2221).

William Bedsole was registered on April 16, 1962. He is a white person with a high school education. He is 38 years old and works at the Choctaw mills. On his application he failed to list any duties and obligations of citizenship; failed to answer the question relating to the priority of the duties and obligations of citizenship; and failed to list the addresses of his references. (Pl. Ex. A-136).

These are but a few of the many white applicants who are registered despite errors or omissions on their application forms. Negroes are rejected for the same errors and omissions.

2. White Applicants are Freely Assisted In Completing their Applications.

The fact that the application form is not used as an examination for white applicants but is used as a simple application is proved conclusively by the facts showing that the white applicants are freely given all the assistance needed in filling out this otherwise complicated questionnaire. The testimony shows assistance to white applicants at every stage of the registration procedure.

a. White applicants are offered assistance when they are first handed their application forms.

Mary Lee Busby, a 42 year old white woman with a sixth grade education who was accepted for registration on February 1, 1960, states - "... the man that gave me the blank ... along with the three other women were going about the people registering helping them answer the questions they didn't understand. ... the man stated if you have any trouble with any of the questions call either him or one of the ladies. I saw this man and the ladies helping the people by explaining the questions and helping with the answers. ... when I sat down he said, 'Lady, whenever you get to a question you don't understand, call me.' ... There were many parts of the application I didn't understand and the man who gave me the application came over and explained to me what the question was and how I should answer it. I am unable to recall the exact questions that I asked for help but I received aid from this man who would tell me what to put down after he had read the question." (Pl. Ex. 5 and A-282).

Gladys McIlwain is a white registrant who applied on March 21, 1960. She has an eighth grade education, is 25 years old and is a housewife. She states - "I was given the application and the registrar showed me where to sign my name. The registrar said that if I did not understand the questions, he would explain them to me." (Pl. Ex. 5 and A-1388).

John McInnis, a white man, applied and was registered on February 5, 1962. He has an eighth grade education, is 23 years old and is employed at odd jobs and cutting timber. He states - "The first person I talked to was a lady who was working there, she gave me the form. As soon as I received the application I sat down and began to fill it out. She told me if I needed any help to ask her. I really didn't understand half the questions." (Pl. Ex. 5 and A-1403).

From the very beginning of the registration process white applicants are made aware of the fact that they will be given whatever assistance is necessary for them to become registered voters.

b. The registrars assist white applicants while they are filling out their applications.

The testimony of white persons is replete with examples and statements of white applicants receiving assistance from registrars whether or not the assistance was asked for by the applicant.

Mary M. Pruitt applied and was registered on February 15, 1962. She is white, 32 years old, a housewife and has a high school education. She states -

"We [she applied with her husband] sat at the same table the registrars were at. I don't recall seeing anyone else apply at the time. ... Certain parts of the application form were explained to us by the people sitting at the table with us. ... I originally answered question 13, 'yes.' [Question relates to giving aid and comfort to the enemies of the United States Government or the government of the State of Alabama.] The board member who was seated at the table saw me write this answer and he asked me if I had really read the question. I re-read the question and realized the answer should be 'no' and that I had made a mistake simply as a result of carelessness. I changed my answer to 'no'." (Pl. Ex. 6 and A-1752)

Charlene Polson was registered on February 5, 1962. She is a white person, has an 8th grade education, is a housewife and is 27 years old. She states - "The elderly registrar stood near me and I believe he was watching me fill out the form. I had trouble with one question and he helped me with the question. I cannot remember which question on my form this was." (Pl. Ex. 6 and A-1720)

Lamar McIlwain applied and was registered on November 1, 1961. He is a white person, has a 7th grade education, is 22 years old and is a heavy equipment operator. He filled out a

perfect application except for two minor errors. He testified that he sat at a table across from the registrars and that when he had difficulty with any of the questions on his form he would read it to the registrars and they would explain it to him. (Table A, Summary 14 and Pl. Ex. A-1392)

Robert Toomey, a white person was registered on October 24, 1961. He has a 7th grade education, is 22 years old, and hauls paperwood for a living. He testified that while he was registering he asked the people there to explain some of the application form. He asked them about question 7 on his form (relating to some of the duties and obligations of citizenship) and they told him what to put down and how to spell the word - "Constitution" in his answer "Defend the Constitution of the United State of Alabama." (Table A, Summary # 12 and Pl. Ex. A-2210)

Milton Sikes, a white person, was registered on January 15, 1962. He has an 8th grade education and is 23 years old. He testified that he had difficulty understanding some of the questions on the first two pages of the application form. He asked the man who gave him the form about the questions and the man told him what to do. He also had trouble with the question about duties and obligations of citizenship and was told by the man to put down - "defend the Constitution of the United

States," which he did. (Table A, Summary # 16 and Pl. Ex. A-1946)

John H. McInnis (previously discussed) states - "I really didn't understand half the questions." ... "I had to have help with several questions. ..."

The woman who gave him the form explained to him what the questions meant. He states - "While I was filling out my application I saw and heard other individuals asking and receiving help while they were filling out their applications." (Pl. Ex. 5 and A-1403)

The testimony of other white registrants also shows that white applicants were given unlimited assistance by the registrars in filling out their forms. (See the testimony of Gladys McIlwain, Pl. Ex. 5; Betty Long, Pl. Ex. 5; Robert Hearn, Pl. Ex. 5; Albert Boney, Pl. Ex. 6; and Oliver Euchanan, see Table A, Summary No. 8)

c. White applicants are permitted to assist each other.

Fannie M. Dixon and Joe Dixon, husband and wife, are both white persons who applied and were registered on May 7, 1962. Mrs. Dixon is 41 years old, and has a 9th grade education. Mr. Dixon has a 2nd grade education, he is 46 years old, and works in the oil fields. Mr. Dixon testified that he can read and write very slowly. Mrs. Dixon states concerning their registration: "When we entered the room my husband told them we came to register and

someone, I believe a woman, gave us each an application. ... As best as I can recall I personally filled out the answers to the application. I am not sure about my answer to 5A [relating to when she became a bona fide resident of Choctaw County]. I also filled out the answers on my husband's application because he couldn't write. The man whom my husband knew as Mr. Lee came in later and said this was alright. I recall that a number of the questions on our applications that I did not understand and I would ask the registrar who would explain the answers to me. I believe this was the man my husband knew as Mr. Lee. During this time the registrar was sitting by me and my husband." (Pl. Ex. 5 and A-554A)

Earl Pardue is a white person with a 4th grade education. He is 46 years old. He was registered to vote on December 18, 1961. He testified he could not read "too well" although he could read his name. He sat at the same table with the registrars and his wife filled out his application form for him. The registrars looked over his form when they had finished and said it was all right.

(Table A, Summary # 15 and Pl. Ex. A-1670)

Fred Skelton, a white person, was registered to vote on February 5, 1962. He is 53 years old, has a 5th grade education, and is a farmer. He testified that he cannot read or write very much and cannot read the application form. He asked

the registrars to fill out his form for him but they said they could not do that. A Mr. Gibson, a white man, who was in the office then filled out Skelton's application form for him while they were in the registrars' office. Skelton gave Gibson the answers as best he could. He testified he did not understand all the questions, yet his application form is filled out perfectly except the present address of his wife is omitted. (Table A, Summary # 20 and Pl. Ex. A-1964)

Bennie Busby is a white person with a 5th grade education. He is 50 years old and farms and does odd jobs. He was registered to vote on April 4, 1960 after filling out a virtually perfect application form. He testified that whenever he had any difficulty filling out the form he asked someone about it. Someone told him to put down the duties and obligations of citizenship: - "Defend the Constitution of the United States and the Constitution of the State of Alabama." He thinks they spelled out the word "Constitution" for him. (Table A, Summary #4 and Pl. Ex. A-271)

These are but a few of the white persons who testified to having received assistance in filling out their application forms from third persons. (See also the testimony of Albert L. Boney, (Pl. Ex. 6); Robert G. Hearn, (Pl. Ex. 5); Julius T. Lewis, (Pl. Ex. 6); Betty Long, (Pl. Ex. 5); William D. Moore, (Table A, Summary # 7); Charlene Polson,

(Pl. Ex. 6); Mary M. Pruitt, (Pl. Ex. 6); and Billy E. Trawick, (Pl. Ex. 6).

- d. The applications of white persons
are passed on in their presence and
they are assisted at that stage.

Many of the white witnesses testified that they received their certificates of registration immediately upon submitting their application forms to the registrars. Some of the witnesses testified they were at that point assisted in correcting errors on their forms or in completing a part of the form which they had omitted.

Gladys McIllwain, (previously discussed) states - "After completing my forms I gave them to the registrars sitting at the table. I do recall having the registrars go over my application because they had told me to reread questions 19 and 20a. [Q. 19 relates to giving aid and comfort to the enemies, and Q. 20a relates to whether the duties and obligations of citizenship have priority over the duties and obligations owed to any other secular organization when they are in conflict] ... As to question 19 in my application I had written yes but when the registrar looked it over he told me that I must have misread the question and to read it over again. I did and changed the answer to "no" [the answer to Q. 20a is also changed from "no" to "yes"]. (Pl. Ex. 5 and A-1388)

Charlene Polson, (previously discussed) states - "I gave my application to one of the registrars when

I had finished. I recall having forgotten to sign my name or answer one of the questions as the registrar called this to my attention. After I added this I again returned my form to the registrar and he gave me a slip of paper indicating I was registered." (Pl. Ex. 6 and A-1720)

Wilma Jackson, a white woman, registered to vote on August 7, 1961. She is 46 years old, has an 8th grade education, and works at a shirt factory. She states - "when I filled out my form, an old man ... sat beside me and helped me whenever I had any questions. ... The old man explained some of the questions to me. I had trouble understanding several questions in the application, including question number 19. I changed my answer from "yes" to "no" to this question after asking for help from the old man who sat next to me. He told me I had put down an incorrect answer so I changed it. ... I had answered question number 2 "yes" and when I had changed and returned it to Mr. Doggett he called my attention to this answer. I then changed my answer to "married."

e. White applicants are told to change their incorrect answers to correct answers.

The registration records themselves bear witness to the aid and assistance rendered white applicants. Frequently we find that incorrect answers have been changed to reflect correct answers. This recurs most often with the more difficult questions.

For example, many of the accepted applications of white applicants contain changes in the answer to the question relating to giving aid and comfort to the enemies. (Q. 19) All of these changes are from an incorrect to a correct answer. Sixty-one of these applications contain this change^{16/} while no accepted application filed by a Negro applicant has this change.

Another difficult question is - "Do you regard those duties and obligations as having priority over the duties and obligations you owe to any other secular organization when they are in conflict?" (Q.20a) Thirty-six white applicants changed their answers to this question from an incorrect to a correct answer.^{17/} Only one accepted Negro application contained this same change (Pl. Ex. A-3086)

On these two questions alone 90 white applicants changed one or both of their answers from an incorrect answer to a correct answer. This constitutes about 12%

16/ Pl. Ex. A-727, 235, 440, 612, 6, 1388, 2056, 445, 1798, 1136, 1554, 2356, 2364, 347, 452, 202, 510, 1025, 1521, 2071, 2221, 805, 872, (all in 1960); 1805, 363, 1208, 193, 1024, 2382, 1061, 2051, 1097, 1407, 2347, 2379, 436, 747, 1159 (all in 1961); 242, 1186, 1403, 1459, 1730, 1522, 187, 1752, 419, 1261A, 1734A, 1739A, 40A, 48A, 1822A, 2042B, 501A, 2121A, 1650B, 1582A, 1863A, 1308A, (all in 1962); 1643A (in 1963).

17/ See Pl. Ex. A-1512, 1626, 265, 847, 72, 1388, 445, 1591, 1171, 1554, 2257, 483, 1391, 1442, 805, 47, (all in 1960); 1795, 1354, 1097, 1904, 1245, 2112, 138, 1671 (all in 1961); 327, 1459, 866, 1124A, 1135A, 1478A, 2167A, 1822A, 2050A, 2140A, 1308A, (all in 1962); 1289 in 1963.

of all the white applicants who have been accepted for registration by the current Board. Included among this group were 29 applicants with a 10th grade education or less.

The irresistible inference of assistance arising from these changes is made conclusive by the testimony of white applicants.

Gladys McIlwain changed her answers to Q. 19 and Q. 20a from incorrect to correct answers after the registrars went over her form and told her to reread Q. 19 and 20a. (Pl. Ex. 5 and A-1388)

Wilma Jackson changed her answers to Q. 19 from "yes" to "no" after she asked for help from an old man seated next to her who told her that her answer was incorrect. (Pl. Ex. 6 and A-1061)

John H. McInnis states that the registrars assisted him in filling out his form and that - "The scratched out parts with the changed answers represent parts where I think I was given help with the answers." (Pl. Ex. 5; A-1403) Q. 3(19) on his form relating to giving aid and comfort to the enemies is changed from an incorrect to a correct answer on his form.

As discussed previously, the registrar saw Mary Pruitt write the wrong answer to Q. 13(19) on her form and asked her if she had really read that question - which relates to giving aid and comfort to the enemies. This answer is also changed from an incorrect answer to a correct answer on her form. (Pl. Ex. A-1752)

3. Negro Applicants Receive No Assistance In Filling Out Their Applications.

It is obvious from the statistics alone that the Negroes do not receive assistance in filling out their applications, otherwise they would not get rejected for errors or omissions on their forms. Not only are they not offered assistance, but they are told that they cannot have assistance.

Henry Williams, a twenty-nine year old Negro, who is a high school graduate and a veteran attempted to register in the fall of 1962 and his application was rejected. (Pl. Ex. A-4264) He testified that when he attempted to register there were about eight or ten other Negroes also applying. When he received his form, one of the registrars told them they were not allowed to talk to any other person. (Pl. Ex. 6)

Quentin Horn, a Negro, is also a veteran and a high school graduate. He applied for registration on July 6, 1962 (Pl. Ex. A-4199) and there were several other Negroes applying at the same time. He was given a form to fill out and instructed by the registrar not to talk to anyone about the application. While he was filling out his form, a Negro woman from Toxey, Alabama, who was filling out an application form, talked to another lady and one of the registrars told her to stop talking. (Pl. Ex. 6)

The registrars will not tell the Negroes why their applications were rejected. They will tell them only that the applications were not properly filled out.

Martin Ruffin, a Negro, is 51 years old and has a tenth grade education. He states that he applied for registration three times prior to the time the current board took office and has applied three times with the current board. All of his applications have been rejected. In July of 1962 he asked the registrars why he had not passed on his previous applications. The lady registrar told him it was because his forms had not been completed. He then filled out his sixth application for registration which was also rejected. All three of his applications with the current board are marked "Unfinished." (Pl. Ex. 6 and A-4233, 4234, and 4235).

The contrast between the treatment of white and Negro applicants is sharpened by the testimony of the registrars. Mrs. Keahey testified, and Mr. Lee adopted her testimony in his statement, that when applicants hand in their application forms if the registrars find an error or omission on the application form which is rejectable under their standards, they do not tell the applicants of this fact. It is clear from all the evidence that she was referring to Negro applicants.

B. The Registrars Use the Signing of the Oath
As a Device to Discriminate Against Negroes

The oath at the top of page three which is in fine print has beneath it an unidentified line apparently intended as a signature line. It is not self-evident as a signature line and, even for those who understand that an oath ordinarily is to be signed, the instruction on the form is that it is to be signed before a member of the board of registrars.

Negro applicants are rejected for mistakenly failing to sign this oath. White applicants are not rejected for this reason because they never fail to sign it. Over 99% of all the white persons who have applied with the current board have signed the oath, and the six who did not sign it were registered anyway.^{18/} 45.7% of all applications of Negroes are missing the applicant's signature under the oath.^{19/}

^{18/} See the following accepted application forms filed by white persons on which the oath has not been signed: Pl. Ex. A-98; 727, 1778, 1950, 2164 and 2325.

^{19/} The oath is not signed on the following applications filed by Negroes: Pl. Ex. A-4009, 4010, 4016, 4018, 4019, 4021, 4022, 4023, 4025, 4026, 4031, 4032, 4037, 4040, 4041, 4043, 4044, 4045, 4050, 4052, 4053, 4064, 4066, 4069, 4070, 4074, 4075, 4076, 4078, 4079, 4082, 4083, 4085, 4096, 4097, 4100, 4101, 4103, 4109, 4110, 4111, 4115, 4116, 4117, 4118, 4120, 4121, 4126, 4127, 4128, 4132, 4134, 4137, 4138, 4139, 4141, 4148, 4149, 4151, 4155, 4159, 4160, 4161, 4162, 4163, 4164, 4168, 4169, 4170, 4177, 4181, 4184, 4196, 4200, 4201, 4203, 4206, 4208, 4209, 4217, 4218, 4224, 4225, 4227, 4228, 4229, 4231, 4242, 4248, 4255, 4262. See footnote 20 infra., for 48 additional applications on which the oath is not signed.

Ethel Ezell, a Negro with sixteen years of education, applied for registration on July 3, 1962. Her application was rejected by the board and was marked "unfinished." The application form shows Mrs. Ezell to be fully qualified under all of the requirements of Alabama law and contains only the one omission -- her failure to sign the line under the oath (Pl. Ex. A-4069). She stated in the questionnaire portion of the application that she will support and defend the Constitution of the United States and the Constitution of the State of Alabama; that she is not or has never been affiliated with any group or organization which advocated the overthrow of the United States Government or the government of the State of Alabama by unlawful means; that she will bear arms for her country when called upon by it to do so; that she believes in free elections and rule by the majority; that she will not give aid and comfort to the enemies of the United States or the State of Alabama and that she regards the duties and obligations of citizenship as having priority over the duties and obligations she owes to any other secular organization. She states in her application that "Some obligations of Citizenship are: to defend my Country in time of need, to obey the laws of my Country."

With the benefit of all of this information the board had regarding this lady's loyalty and beliefs, the board rejected her for failing to sign the oath to support and defend the constitution

and disavowing belief in or affiliation with any subversive organization. She did sign the Supplemental Oath attesting to the truth of all of the information she gave in her application.

Mellie Dickinson, a Negro school teacher with over twenty years of teaching experience in Choctaw County, was denied registration on three occasions, each time having failed to sign under the oath on the top of page three. There were other minor errors in her application forms which this board, as technical as it is with Negroes, may have used for rejecting her as it marked her applications "Unfinished" or "Incomplete." Mrs. Dickinson testified at the trial that she simply overlooked the signature line under the oath and indeed she did, but on each application she answered the six loyalty questions on the application properly. What is evident from this witness and from the many well qualified Negroes who have failed to sign the oath in Choctaw County is that the requirement of a signature under the oath with or without marks is deceptive and that the rejection of Negroes for failing to sign it is a device to discriminate against them.

The registrars testified that when an applicant arrives at the office and is given his application form the registrars put a check mark by the oath and advise him to sign it. But the records show that this procedure is not consistently followed at least with Negroes. Forty-eight of the applications of Negroes where the oath was not signed

contained no such check marks at the signature line.^{20/} Further it is evident from one of the rejected applications of Jessie Washington (Pl. Ex. A-4262) that page three of the form was partly filled out and the check marks put on it by the registrars in advance. Mrs. Washington testified that she stood in line to apply that day, that she arrived at the board from school, where she teaches, just before closing time. She did not get an opportunity even to commence filling out an application form that day but the registrar had prepared in advance page three of her form which she would have received had the board not closed. The check marks are on this form but they were obviously put there outside the presence of the applicant. [The board does not place the applicants' under oath in the ordinary sense nor does the board even require that the applicants read the oath.

In sharp contrast the testimony of white persons shows that they signed the form after they filled out their applications and in the presence of the board. The fact that over 99% of white applicants sign the

20/ The following rejected applications filed by Negroes contain no check mark near the line under the oath: Pl. Ex. A-4001, 4012, 4014, 4030, 4038, 4047, 4048, 4051, 4054, 4055, 4062, 4063, 4065, 4072, 4073, 4087, 4088, 4092, 4119, 4122, 4123, 4124, 4125, 4129, 4140, 4142, 4143, 4144, 4152, 4153, 4156, 4189, 4214, 4216, 4220, 4221, 4223, 4226, 4236, 4237, 4239, 4240, 4245, 4253, 4259, 4260, 4264, 4267.

oath is explained by the testimony of white witnesses demonstrating that they received all the assistance necessary to execute an application form which would be acceptable.

Both Betty Long and Mary Busby, whose registration experiences are discussed above, state that they signed their forms after filling out their application and before the registrars. Mary Busby stated "I signed the form after the man examined the form and said it was all right. He showed me where to sign it." (Pl. Ex. 5). Charlene Polson, whose experiences are also discussed above, states she turned her form in and the registrar called to her attention that she failed to sign her name or answer a question. Many other white witnesses, some of very low education, state they were told where to sign their name and it is apparent the registrars made sure that they did sign.^{21/}

Where the assistance to white applicants is as complete as the evidence in this case shows it to be in Choctaw County, the inescapable inference even apart from the testimony is that the board makes certain that the white applicants sign in the proper places.

^{21/} See the summary of testimony in Table A for the following white witnesses: Oliver Buchanan, James F. Newton, Robert Toomey, Lamar McIlwain, Milton E. Sikes, Fred Skelton, Gladys McIlwain, Fannie Dixon and Joe Dixon.

The registrar who is the oath giver has the duty to see to it that applicants for registration take the oath and sign the oath, unless the applicants refuse to do so.^{22/} The registrars have not fulfilled this duty because instead of making sure that the Negro applicant signs the oath they use it as a device to lay ~~springes~~ for him hoping that he does not; and when he does not they reject him for it without notice.

C. SUMMARY

The registrars testified that they give assistance to applicants who ask for it on questions which are not "vital." Which questions are vital was not explained but the records show that every question is vital for Negro applicants because Negroes get rejected for missing them. On the other hand, the records show that no question is vital for white applicants because they are not rejected for missing them or they are given aid and assistance in filling them out. We are thus brought to what appears to be a paradox but is the key to the discrimination in this case -- if you ask for assistance the application form is not an examination; if you do not ask

^{22/} See U.S. v. Penton, et al., Montgomery, Ala., decided November 20, 1962.

for assistance the application form is an examination; you will receive assistance on questions that are not vital; no questions are vital for white persons, all questions are vital for Negroes; white people ask for and receive assistance, Negroes do not. The reason white people ask for assistance is that there is nothing in the registration procedure to lead them to believe that it is an examination they are taking. The reason Negroes do not ask for assistance, aside from the fact that they are Negroes and the registrars are white and they live in a segregated society, is that every aspect of the registration procedure leads them to believe that the application is an examination. They are told by the registrars that they will not be permitted to speak with each other during the registration process; they are instructed that they must fill the application out completely and properly; they are told by the registrars that they will hear from the Board if they "pass"; they are not told by the registrars why they failed, only that they did not fill out their application properly; and most important of all, the Negroes know that the vast majority of the Negroes who apply including their community leaders and teachers, get rejected for failing to fill out the application properly.

The terrible truth is that the registrars have manipulated the use of the application form to

enfranchise white persons and disfranchise Negroes.
The use of the application form as an examination
is plainly "a calculated scheme to lay ~~s~~pringes"
for the Negro citizens.^{23/}

^{23/} Lassiter v. Northampton Election Bd., 360
U.S. 45, 54.

VI.

Defendants Have Made Every Effort to Facilitate Registration of White Citizens and to Impede the Regis- tration of Negro Citizens.

Every practice of the Board points to the fact that they regard voting as a right of white citizens but as a restricted privilege for Negro citizens to be granted sparingly, if at all. Registration for white persons is therefore encouraged and made easy; for Negroes it is discouraged and made an obstacle course.

A. The Testimony Shows how Easy the Registrars make Registration for White People.

White witnesses testified that the registrars solicit their registration; that the registrars offer to assist them with their registration; that the registrars help them to secure supporting witnesses; and that the white persons receive their registration certificates at the time they register. The Negroes receive none of these benefits.

1. The registrars solicit the registration of white citizens but not Negroes.

In the Fall of the odd numbered years, the registrars go out into the precincts to register applicants. They meet to take applications at places such as homes, stores, and community centers. As Registrar Lee testified these are always at homes, stores and community centers of white people.

Robert Toomey, a white man with a seventh grade education, testified that he registered to vote on

October 24, 1961 at the home of Henry Williamson. Registrar Lee personally told Toomey that they would be registering on that date at Williamson's house. Williamson is a white man. No Negroes applied for registration on that date.

Robert G. Hearn, a white man with a seventh grade education, registered to vote on October 27, 1961. He went to his mother-in-law's store (Smith's store) in the Rock Springs community. Two of the registrars were there eating lunch. They were registering applicants at the Rock Springs Community House that day. Hearn asked the registrar if he could register and the registrar went to his car and brought back to the store a form for Hearn to fill out. The store and the community house are establishments of white people. No Negroes applied for registration on that date.

2. The registrars offer to assist white persons with their registration; they do not offer to help Negroes.

The testimony of white persons previously detailed in this Brief and summarized in Table A establishes the usual procedure for the registration of white persons. When they go into the office to register the registrars tell them that if there is something about the application they do not understand they should ask the registrars about it.

The testimony of Negroes outlined in other parts of this Brief and summarized in Table A proves that no such invitation by the registrars is made to Negroes. The Negroes are told they should fill out the form and not talk to anybody.

3. The registrars help white persons
to secure supporting witnesses;
Negroes have to find their own.

The supporting witness requirement is rigidly enforced against Negroes. The supporting witness must be a registered voter in the county and must be one of the persons listed by the applicant as a reference. The supporting witness must be a person who can swear under oath that he knows the applicant, that the applicant is a bona fide resident of the county and that he knows of no reason why the applicant is disqualified from registering.

The registrars often suggest to white persons who to get to vouch for them, and it is very often an official in the courthouse.

John McInnis, a white man, states -- "I asked her [the registrar] about the supporting witness, one of the women asked me if I knew Mr. Fred Brewster [sic] or anyone at the courthouse who could

witness the application. Bruister subsequently signed the supporting witness portion of McInnis' application. (Pl. Ex. 5 & A-1403)

Mary Lee Busby, a white woman, states - "The man told me, as I recall to go down to the tax assessor, Mr. McDowell, to get him to be a supporting witness. I had told him I knew Mr. McDowell, after he asked me who I knew in Butler. I had written the name of Mr. McDowell and he just said 'Go down and get his signature' ... Everyone who was there that day would take the paper out of the room to get someone to sign it, as the man gave instructions to take the application outside and get someone you knew to sign it." (Pl. Ex. 5 & A-282)

The ease with which white applicants obtain their supporting witnesses is demonstrated by the fact that about 50% of all white persons who applied with the current board have had courthouse officials as vouchers. This fact is derived from the Examination of the Supporting Witness on the application itself.

Courthouse Personnel Who Were Supporting
Witnesses From 11-9-59 to 2-5-63

Total Applicants During Period	<u>W</u> 784	<u>N</u> 302
Total Applicants Vouched For By Courthouse Personnel	388	0
Percentage	49.4	0

<u>Names of Supporting Witnesses & Their Positions</u>	<u>Number of Applicants Vouched For</u>	
	<u>W</u>	<u>N</u>
Allen, M. D. (Secy. Board of Educ.)	6	0
Allen, W. C. (Supt., Bd. of Educ.)	26	0
Bruister, F. B. (Tax Collector)	38	0
Christopher, J. A. (Circuit Clerk)	117	0
Cowan, E. W. (Clerk - FHA)	8	0
Cox, T. C. (Deputy Sheriff)	5	0
Cummings, F. M. (Probate Clerk)	15	0
Devours, R. B. (Asst. County Agent)	5	0
Evans, R. (Supervisor, Bd. of Educ.)	3	0
Ford, C. (Tax Collector)	46	0
Gilmore, W. (Circuit Solicitor)	13	0
Littlepage, C. E. (Sheriff)	6	0
Littlepage, J. K. (Deputy Sheriff)	4	0
McDowell, W. K. (Tax Assessor)	14	0
McPhearson, R. E. (Probate Judge)	14	0
Martin, H. (USO - Veterans' Office)	22	0
Martin, J. E. (Game Warden)	3	0
Miller, M. (Clerk, Tax Assessor)	3	0
Phillips, H. (Tax Assessor)	18	0
Thrash, C. A. (Clerk - Tax Assessor)	9	0
Turner, D. N. (Clerk - County Court)	3	0
Wiggs, C. E. (Probate Clerk)	15	0
Totals	<u>388</u>	<u>0</u>

Thirty-three of the Negro applications have not been witnessed by a supporting witness.^{24/} The registrars testified that they do not pass on applications until after the supporting witness has signed his portion of the application.

Oliver Pringle, who is one of the Negroes who has applied repeatedly, obtained a supporting witness on sixteen of his eighteen applications. Each time the supporting witness affirmed under oath that he knew of no reason why Oliver Pringle is disqualified from registering to vote under Alabama law. Each time Oliver Pringle was rejected. The testimony does not reflect the difficulty Pringle may have had in securing supporting witnesses but it does show that he lives near Yantley, Alabama, which is at least fifteen miles from the courthouse in Butler. Seventeen of his eighteen applications were made at Butler.

Verna Kirksey, a Negro with an eleventh grade education, applied for registration on October 23, 1961. She was unable to find anyone at the courthouse to witness her application and two weeks later she returned with Reverend Rowe, a Negro, to sign as her supporting witness. Mrs. Kirksey lives at Silas, Alabama, about twenty-five miles from Butler.

^{24/} For applications submitted by Negroes on which the Examination of the Supporting Witness on page 4 of the form is not filled out see the following:
Pl. Ex. A-4005, 4013, 4027, 4042, 4052, 4053, 4067, 4076, 4078, 4099, 4103, 4130, 4131, 4133, 4157, 4170, 4172, 4183, 4184, 4188, 4190, 4194, 4202, 4206, 4227, 4232, 4243, 4253, 4254, 4265, 4266, 4267, 4299.

Mr. and Mrs. Vernon Underwood, Negroes, both applied for registration at the courthouse on June 4, 1962. Both of them filled out their form but did not have a supporting witness to sign for them. They returned to the courthouse again on June 7, 1962, with Mrs. Rosie McSwain, a Negro, who signed as their supporting witness.

It is obvious that the voucher requirement operates to discriminate against Negroes because it puts a burden on them not suffered by the white people.

4. White persons receive their registration certificates at the same time they apply, Negroes who get accepted must wait.

Twelve of the white applicants testified that they received their registration certificates when they handed in their application forms. ^{25/}

On the other hand, none of the Negro witnesses testified to having received their certificate of registration at the time they applied. Generally they are told that if they pass they will hear from the Board.

^{25/} See Table A for the summarized testimony of the following white witnesses: Julian T. Lewis, Mary Busby, Gladys McIlwain, Bennie Busby, Wilma Jackson, Albert Boney, Robert Hearn, Milton E. Sikes, Betty Long, John H. McInnis, Charlene Polson and Billy E. Trawick.

Because the Board uses the application form as an examination for Negroes but not for white persons, and because the "grading" of these examinations is so strict, it is no surprise to find that Negroes are delayed in receiving their certificates, whites are not.

B. The Records Show how Easy
Registration is for White
Persons and how Difficult
it is for Negroes.

The fact that the applications of white applicants are never rejected and that 86% of the applications of Negroes are rejected alone proves the double standard - if you are white you can vote; if you are Negro you can not.

The Negroes are rejected for their lack of literacy or understanding, that is, for having made errors or left omissions on their application forms. The white persons become registered regardless of their level of literacy or understanding. That this double standard is discriminatory if not fraudulent is established from the following chart showing the educational achievement of the accepted and rejected white and Negro applicants.

Education Shown on Accepted and
Rejected Applications Filed by
Negroes and White Persons

November 9, 1959 to February 5, 1963

	<u>White</u>		<u>Level of</u>	<u>Negro</u>	
	<u>Accepted</u>	<u>Rejected</u>	<u>Education</u>	<u>Accepted</u>	<u>Rejected</u>
			College		
			Grad.		
	160	0	2	17	44
			Some		
			College		
	462	0	10-12	9	45
	113	1	7-9	12	59
	32	0	6th Grade	4	57
			& Below		
	15	1	Unknown	0	55
Totals:	<u>782</u>	<u>2</u>		<u>42</u>	<u>260</u>

It is sometimes argued that education "is not everything" but a comparison of the following portions of certain rejected applications of Negroes and accepted applications of white persons speaks for itself.

Rejected Negro Applicant

Date of Application: 2-1-60

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Lugene E. Philson
April 29, 1930 Kanta 1 Box 73
Riderwood, Ala.

3. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: Riderwood, Ala.
Lugene Philson

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: Chestnut County
Board of Education

5. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: April 29, 1930 (a) When did you become a bona fide resident of _____
County: Chestnut (b) When did you become a bona fide resident of _____ Ward or precinct _____

11. Give a brief statement of the extent of your education and business experience: I am a College
graduate with a B.S. degree and have
been teaching in Chestnut for 6 years

20. Name some of the duties and obligations of citizenship: A Citizen must support
and defend his Country. He must give
aid when needed to do so.

Accepted White Applicant

Date of Application: 12-21-59

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Joseph Clifford Morley
July, 29, 1932 Born at Branch

3. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: Branch

4. If you are self-employed, state the nature of your business: farmer

5. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: July 24, 58 (a) When did you become a bona fide resident of Chestnut
County: July 24, 58 (b) When did you become a bona fide resident of Branch Ward or precinct July 24, 58

6. If you intend to change your place of residence prior to the next general election, state the facts: 1958

11. Give a brief statement of the extent of your education and business experience: 9th Grade

20. Name some of the duties and obligations of citizenship: Obey the laws of the
Country and State

Rejected Negro Applicant

Date of Application: 6-6-60

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Mellie Dickinson
Nov. 8, 1904 Melvin, Ala. (Rt 1, Box 4 T1 Butler
Alabama)

(c) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: I have been employed
during the last five years by the Board
of Education, Mr. Wiley K. Allen (employer)
Butler, Ala.

2. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: Nov. 8, 1904 (a) When did you become a bona fide resident of Nov. 8, 1904
County: Choctaw (b) When did you become a bona fide resident of 1904 Ward or precinct

3. Give a brief statement of the extent of your education and business experience: I am a 4 yr
college graduate

4. Name some of the duties and obligations of citizenship: Defend the Constitution
Be loyal and true to the state and
County also the Country U.S.A

Accepted White Applicant

Date of Application: 7-6-60

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Richard Patchiff
3-12-34 Kewanee Miss
3-12-34

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses:

Calvin Phillips Buttrall

2. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: 3/11/37 (a) When did you become a bona fide resident of Choctaw
County: 3/11/37 (b) When did you become a bona fide resident of B-3 Ward or precinct 3/11/37

3. Give a brief statement of the extent of your education and business experience: 5 grade

4. Name some of the duties and obligations of citizenship: Obey the laws

Rejected Negro Applicant

Date of Application: 3-7-60

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address:

Jessie R. Washington,
3/9/30, N. Meritt, Ala., Rte. 1, Box 57 Melvin
Ala.

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses:

Teacher, employed
by The Choctaw County Board of Education

2. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident:

3/9/30 (a) When did you become a bona fide resident of Choctaw
County: 3/9/30 (b) When did you become a bona fide resident of Ward or precinct 7

7. Have you previously applied for and been denied registration as a voter:

yes (a) If so, give the facts: I was
never given any facts as to the cause of denial.

11. Give a brief statement of the extent of your education and business experience:

High School's
Diploma in Education

20. Name some of the duties and obligations of citizenship:

to obey the rules and regulations
of your state and country, to be self-reliant, to
vote, to be loyal to your country.

Accepted White Applicant

Date of Application: 3-7-60

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address:

William R. White
Lots of White, Dec 2, 1911
Rack Springs,

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses:

C.S. WENDELL Lenoir Co.
Auctioneer

2. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident:

1911 (a) When did you become a bona fide resident of
County: 1911 (b) When did you become a bona fide resident of Ward or precinct 1411

7. Have you previously applied for and been denied registration as a voter:

no (a) If so, give the facts:

11. Give a brief statement of the extent of your education and business experience:

Finished 10 grade at school

20. Name some of the duties and obligations of citizenship:

To uphold the constitution of the
United States and obey the laws

Rejected Negro Applicant

Date of Application: 11-10-61

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Laura Mae Jackson Underwood
Born - Oct. 30, 1931 Mt Sterling, Ala.
pres. Add. Rte 1, Box 4 M2 Butler, Alabama
6. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: Laura Mae Jackson Mt. Sterling, Ala.
Laura Mays Underwood
- (a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: Charter Co. Board of
Education Butler, Ala.
8. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: Oct. 30, 1931 (a) When did you become a bona fide resident of _____
County: Charter (b) When did you become a bona fide resident of _____ Ward or precinct _____
14. Give a brief statement of the extent of your education and business experience: I am a graduate of Stillman College, Tusculum
Ala. with a B.S. degree
3. Name some of the duties and obligations of citizenship: I think a citizen should
abide by all laws of his country, state, local & national gov.
He should be willing to do whatever necessary to protect
his country.

Accepted White Applicant

Date of Application: 10-2-61

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Albert L Boney
10 - 31 - 38 - LUSK TEXAS AKA
7. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: LUSK ALA
8. If you are self-employed, state the nature of your business: NO
- (a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: _____
9. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: 10 - 31 - 38 (a) When did you become a bona fide resident of _____
County: CALHOUN (b) When did you become a bona fide resident of B 11 Ward or precinct 10-31-38
13. Give a brief statement of the extent of your education and business experience: 8
4. Name some of the duties and obligations of citizenship: To preserve the constitution
of the united states and the constitution of the
state of Ala

Rejected Negro Applicant

Date of Application: 7-2-62

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Sarah E. Laid
Birth - December 18, 1939 at Silas, Alabama
Present Address - Post Office Box 32, Silas, Alabama

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: I have been employed as a teacher by the Turner County Board of Education of Ashburn, Georgia.

2. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: Dec. 18, 1939 (a) When did you become a bona fide resident of Chastan
County: Dec. 18, 1939 (b) When did you become a bona fide resident of 10th Ward or precinct 12/18/39

8. Give a brief statement of the extent of your education and business experience:

I have completed four years of college and have been employed two terms as a teacher

17. Name some of the duties and obligations of citizenship: Defend the constitution of the U. S. A. and State of Ala. Support the state and national government. Participate in elections.

Accepted White Applicant

Date of Application: 4-2-62

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: L. W. Frank
May 22, 1935 Vilkinson Ala Post one

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: O. B. Clock Truck Driver

Vilkinson Ala

20. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: May 22 - 1935 (a) When did you become a bona fide resident of Chastan

County: Chastan (b) When did you become a bona fide resident of B-7 Ward or precinct May 22 - 1935

21. If you intend to change your place of residence prior to the next general election, state the facts:

6. Give a brief statement of the extent of your education and business experience:

Fourth grade NO
Truck for ten years NO

15. Name some of the duties and obligations of citizenship: Defend the constitution of United State
United State

Rejected Negro Applicant

Date of Application: not dated

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Harvey James Craig
11/12/40 - Gantley, Alabama
Rt. 1, Box 2, Gantley, Alabama
3. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: Gantley, Alabama - Harvey James Craig
5. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: 11-12-40 (a) When did you become a bona fide resident of Choctaw
County: 11-12-40 (b) When did you become a bona fide resident of 3 Ward or precinct 11-12-40
11. Give a brief statement of the extent of your education and business experience: I have completed six years of elementary school, three years of junior high school, three years of high school and three years of college.
20. Name some of the duties and obligations of citizenship:
1. Support and defend the constitution of the United States and the Constitution of the state.
2. Support the government by paying ~~tax~~ tax. 3. Support free elections by the minority

Accepted White Applicant

Date of Application: 2-5-62

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: J. L. Harrington
August 29, 1929, Jones County, Miss. Lillbertown, Ala.
Route 1.
5. Give the names of the places, respectively, where you have lived during the last five years; and the name or names by which you have been known during the last five years: Itom, Wall, Miss.
~~Route 1~~ Lillbertown, Ala.
7. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: Jan 1/960 (a) When did you become a bona fide resident of Choctaw
County: Jan 1/960 (b) When did you become a bona fide resident of But 11 Ward or precinct Jan 1/960
13. Give a brief statement of the extent of your education and business experience:
5 grade
mechanic
2. Name some of the duties and obligations of citizenship: have a good standard
defend the constitution of united states

Rejected Negro Applicant

Date of Application: 6-4-62

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Wesley L. Underwood
Aug. 17 1936, Poplarville, Miss. Rt 2 Box 182 Butler, Ala.

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: United States Air Force

4. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: Feb 14, 1960 (a) When did you become a bona fide resident of Chattahoochee
County: Feb 14 1960 (b) When did you become a bona fide resident of Ward or precinct 5

10. Give a brief statement of the extent of your education and business experience:
1-12 Grade Lumberton, Miss. 3 years College 1954-1957
Stillman College, Tuscaloosa, Ala.

19. Name some of the duties and obligations of citizenship: Oath according to Local, State
and National Laws (2) protect public and private property.

Accepted White Applicant

Date of Application: 2-5-62

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: J. P. Sikes Jr
Libon Ala. born 2/19/41 Libon Ala. Rt 1 Box 27

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: Houses Drile Co
Working under

14. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: 2/20/61 (a) When did you become a bona fide resident of 2/20/61
County: Chattahoochee (b) When did you become a bona fide resident of B-9 Ward or precinct B-9-1941

20. Give a brief statement of the extent of your education and business experience:
10 years grade school
work more 3 years

9. Name some of the duties and obligations of citizenship: To uphold the constitution
of the United States and Ala. To defend my country
against any

Rejected Negro Applicant

Date of Application: 8-6-62

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Ethel Lee Ezell
September 25, 1937, Cornwell, Alabama
2. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: September 25, 1937 (a) When did you become a bona fide resident of Choctaw
County: September 25, 1937 (b) When did you become a bona fide resident of B8 Ward or precinct 9/25/37
11. Give a brief statement of the extent of your education and business experience: A College
education and no business experience.
20. Name some of the duties and obligations of citizenship: Some obligations of
Citizenship are: To defend my Country in time
of Need, To obey the laws of my Country

Accepted White Applicant

Date of Application: 1-15-62

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Milton Edward Likes
December 19, 1939, Gilbertown, Ala.
Gilbertown, Ala. Rt. 1 Box 75
2. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: Dec. 19, 1939 (a) When did you become a bona fide resident of Choctaw
County: Dec. 19, 1939 (b) When did you become a bona fide resident of B8 Ward or precinct Dec 19, 1939
8. Give a brief statement of the extent of your education and business experience: I went ~~high~~ through 8 grades of school
17. Name some of the duties and obligations of citizenship: defend the Constitution
of the United States

Rejected Negro Applicant

Date of Application: 7-6-62

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Alice Dickinson
April 30, 1932 Mount Sterling, Alabama
Rt. 2, Box 197 - Butler, Alabama

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: Choctaw Co. Board of Education
Butler, Alabama

21. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: April 30, 1932 (a) When did you become a bona fide resident of April 30, 1932
County: Choctaw (b) When did you become a bona fide resident of _____ Ward or precinct _____

7. Give a brief statement of the extent of your education and business experience:

College Graduate

15. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama:

yes

16. Name some of the duties and obligations of citizenship:

Defend the Constitution
and obey the laws of the State, County
and City

Accepted White Applicant

Date of Application: 7-6-62

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Ray C. McKenzie
Choctaw County, Miss Lawson, Ala
Sept 19, 1920

12. If you are self-employed, state the nature of your business: no

(a) If you have been employed by another during the last five years state the nature of your employment and the name or names of such employer or employers and his or their addresses: no

13. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such bona fide resident: 1960 - Feb 15 (a) When did you become a bona fide resident of Choctaw
County: Feb 15 - 1960 (b) When did you become a bona fide resident of B 5 Ward or precinct July 1961

19. Give a brief statement of the extent of your education and business experience:

7. Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama:

yes

8. Name some of the duties and obligations of citizenship:

To defend the Constitution
of the U.S.A. of Ala

Rejected Negro Applicant

Date of Application: July, 1962

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: Louise L. Sja
April 1, 1930
Route 1, # 122 Millery 5, Alabama

4. If you are self-employed, state the nature of your business: teacher at the
Shady Grove High School Silas, Ala.

5. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such
bona fide resident: April 1, 1930 (a) When did you become a bona fide resident of April 1, 1930
County: Choctaw (b) When did you become a bona fide resident of _____ Ward or precinct _____

6. Give a brief statement of the extent of your education and business experience: College
Education, I received my Bachelor Degree
from Alabama State College

19. Will you give aid and comfort to the enemies of the United States Government or the Government of the State of Alabama:

yes

20. Name some of the duties and obligations of citizenship: Defend the Constitution
Obey the laws of the County, City & State

Accepted White Applicant

Date of Application: 2-19-62

QUESTIONNAIRE

1. State your name, the date and place of your birth, and your present address: James W Johnson
January 25, 1939, Gilbertown Ala

(a) If you have been employed by another during the last five years state the nature of your employment and the name
or names of such employer or employers and his or their addresses: W. F. Hendrix
Gilbertown Ala. R. M. Utsey Silas Alabama

12. If you claim that you are a bona fide resident of the State of Alabama, give the date on which you claim to have become such
bona fide resident: 1-25-1939 (a) When did you become a bona fide resident of Choctaw
County: 1-25-1939 (b) When did you become a bona fide resident of Choctaw Ward or precinct 59

6. Will you give aid and comfort to the enemies of the United States Government or the Government of the State of Alabama:
yes

7. Name some of the duties and obligations of citizenship: To defend the constitution of
U.S.A. in the State of Alabama.

18. Give a brief statement of the extent of your education and business experience:
sixth grade

The registrars are to be commended for the ease with which they have registered white citizens; for that is their duty in a democratic free society. But that duty extends to all citizens, Negro and white. All citizens are to be registered on an equal basis - the Negroes of Choctaw County must be registered on the same basis and under the same standards as have the white citizens. The only legitimate use of voter registration laws and requirements is to facilitate the registration and voting of all citizens under reasonable standards.

VII.

THE ACTS OF THE DEFENDANTS HAVE
DEPRIVED NEGRO CITIZENS OF THE
RIGHT TO VOTE WITHOUT DISTINCTION
OF RACE, PURSUANT TO A PATTERN AND
PRACTICE OF DISCRIMINATION.

The use of the words "pattern or practice" in the Civil Rights Act is a recognition by Congress that acts of discrimination which are continuous or, whether continuous or not, which disadvantage a significant percentage of Negro applicants, requires a different and more direct form of relief than where the acts of discrimination are isolated or not substantial. For that reason, the Congress has provided that where discrimination is found the Court must make a finding whether it has been pursuant to a pattern or practice.

A. A Pattern and Practice of Discrimination by the Current Board

The registration statistics alone which show the action of the current Board demonstrate that the discrimination has been both continuous and substantial, and therefore has been pursuant to a pattern and practice. The Board has rejected 86% of all the applications of Negroes but less than 1% of the applications of white persons. This pattern has been a continuous one since the Board took office. In 1960, 95% of the applications of Negroes were rejected; no applications of white persons were rejected. In 1961, 85% of the applications of Negroes were rejected and less than 1% (only one application out of 195) of the

applications of white persons were rejected. In 1962, 80% of the applications of Negroes were rejected; no applications of white persons were rejected.^{26/}

The specific discriminatory practices of the Board occurred throughout this three-year period. These practices included using the application form as a strict literacy or intelligence examination for Negroes but not for white persons; rejecting Negroes but not white persons for errors and omissions on their application forms; assisting white applicants but not Negroes in filling out their application forms; and facilitating the registration for white persons but making registration difficult for Negroes. The registrars themselves testified that their standards and procedures have not changed during the time they have been in office since November 9, 1959.

B. A Pattern and Practice of Discrimination by Previous Boards of Registrars.

At the time the current Board took office in November 1959, Negroes constituted less than 10% of the registered voters of Choctaw County.^{27/}

^{26/} See Chart on page 3, supra., entitled "Accepted and Rejected Applications of White and Negro Applicants."

^{27/} See Pl. Ex. 1, Attachments A and C for the names of Negroes who are currently registered and who have not reidentified.

In the eight-year period between January 1952 and November 1959, only 10% of the persons who became registered in Choctaw County were Negroes.^{28/} This fact alone raises the inference of a long history of discrimination in Choctaw County.

The rejected applications filed with previous Boards of Registrars have been destroyed, which in itself is some evidence of discrimination. But, although we have no records of rejected applicants, the testimony and other records in this case show that qualified Negroes have been rejected by prior Boards.

Martin B. Ruffin, a Negro, stated that he has attempted to register to vote a number of times at the Courthouse in Butler, Alabama but he has never been registered. He first tried in 1954 or 1955 when twice he filled out application forms in the same year. The first time he believes he took the Negro County Farm Agent, Mr. Banks, with him as his voucher. He cannot remember who vouched for him the second time. He never heard from either of these applications.

He tried again in about 1958 and he had a white man, Mr. Woody Cook, vouch for him as he thought it might help him get registered but again, he never heard from the Board, (Pl. Ex. 6).

^{28/} See Table H. The defendants objected to the introduction in evidence of registration records relating to registration under previous Boards of Registrars. Not only are these records necessary to establish racial statistics but they also establish a pattern of discrimination. They are admissible for these reasons and also because the State is a defendant and they are admissible against it. U. S. v. Dogan, et al., (C.A. 5, decided January 26, 1963).

Jessie R. Washington, a Negro school teacher, testified that she first applied to register in Choctaw County in about 1958 when she filled out an application form. She never heard from the Board. (See Table A)

Edward Knighton is a Negro teacher and a veteran; he states that he first attempted to register to vote in Choctaw County in 1954 at the courthouse in Butler, Alabama. His application was rejected. He applied a second time in 1955 when he filled out an application form and submitted it to the Board. He never heard from this application. (Pl. Ex. 6)

Another Negro school teacher, Lugene E. Matthews, testified that she first applied for registration to vote in Choctaw County in 1952 or 1953. She filled out an application form but she never heard from the Board. (See Table A)

Verna Kirksey, a Negro, testified that she first attempted to register to vote in Choctaw County in the late 1930's. She went to the Judge's office in the courthouse in Butler, Alabama and asked if she could register to vote. She was told it was not time for Negroes to register, that it would never be the time for Negroes. (See Table A)

Registration books were not available for the period 1944-1952. However, the books which cover the ten-year period from 1933 to 1943 list only fifteen Negroes as registered during this period. Only three of these Negroes are currently shown to be on the list

of registered voters maintained by the Judge of Probate of Choctaw County. (Pl. Ex. 1) During the same ten-year period, 1933-1943, 2,178 white persons were listed as registered to vote in Choctaw County. (See Table H)

Of the Negroes shown to be currently registered in the records of the Judge of Probate, only five were registered to vote prior to 1952, one in 1951, one in 1950 and three in 1936. These same records, however, show that a substantial number of the current white registrants in Choctaw County were registered prior to 1952.

Thus, a pattern and practice of discrimination in the registration and voting process has been maintained for many years in Choctaw County.

VIII.

THE RELIEF

The duty of a federal court of equity is to grant full and adequate relief. In this case, a case arising under the civil rights acts, relief is adequate when it gives full effect to the purpose of the acts. The purpose of the Acts is plain from a reading of them -- to guarantee that all persons will be registered in a fair, nondiscriminatory manner.

To insure nondiscrimination in this case requires not only a general prohibitory injunction but specific orders requiring the registrars to register Negroes under the same procedures and requirements as have been used in registering white persons in Choctaw County. The registrars cannot be allowed now to shut off registration by applying the Negro standard to white citizens, unless they have a re-registration of all voters. "Equality of treatment is not achieved through indiscriminate imposition of inequalities."^{29/}

The registrars must be enjoined from subjecting Negro applicants to standards and procedures any different or more stringent from those which have been applied to white persons in the past; and they must be specifically ordered to encourage, and facilitate the registration of Negroes in Choctaw County as they have always done with white persons.

^{29/} James v. Almond, 170 F. Supp. 331, 339 (E.D. Va., 1959)

Any relief short of this will serve only to permit the perpetuation of the discrimination which is the gravamen of this suit.

For purposes of relief, the Court must make a specific finding that the acts and practices of the defendants have deprived Negro citizens in Choctaw County of the right to vote without distinction of race or color, and that such deprivations have been pursuant to a pattern or practice of discrimination. The evidence clearly shows that this is so in Choctaw County. Such a finding will bring into operation the referee provisions of the Civil Rights Act of 1960, should it ever become necessary to use that procedure. If after judgment the Board continues to reject Negro applicants unjustifiably, the rejected Negro applicants will have an opportunity to apply to the Court for a determination whether they meet the Choctaw County requirements for registration.

The Court should enter a series of specific orders outlining the procedures and requirements followed by the registrars in the past in registering white persons, and requiring the registrars to permit Negroes to register under those same standards, requirements, and procedures. This is the only method for the undoing of the discrimination to which Negroes as a class have been subjected in the past, and it is the only relief by which the Fifteenth Amendment requirement will be satisfied. Further, it is the only relief that will fairly notify the defendants of their specific obligations under the law, thus giving

them the opportunity to correct the past and to retain the conduct of registration on a purely local level.

The Court should order the immediate registration of all Negroes shown by the evidence to have applied for and been denied registration and who possessed all the substantive qualifications for registration and voting -- those Negroes who were unfairly and discriminatorily denied registration as a result of using the application form as a strict examination for Negroes. These Negroes cannot in good conscience and equity be required to make another extended trip to the office of the registrars to reapply and to produce another supporting witness to the Board when they have already done so, in some cases many times, and were in truth qualified under the standards applied to the white registrants. There is but one office for the registration of voters in Choctaw County. Many Negro applicants and their supporting witnesses must travel miles to apply. The Board is open only during working hours, usually only twice a month, which means inevitably that many applicants and their supporting witnesses must take time from work in order to apply. The Negroes who have already applied and were discriminatorily rejected should not be made to resuffer these burdens.

The plaintiff, the United States of America, both as an interested party and as an assistant to the Court in the enforcement of its decree, should be

given the continued right of inspection and copying of the voter registration records of Choctaw County; and the defendants should be required to report to the Court on a monthly basis in detail the progress they have made in the registration of voters.

We sincerely believe, and experience confirms this, that the specific relief proposed here will more effectively operate to the advantage of all parties and the Court than would a simple prohibitory injunction.

The general principles which give meaning to the Fifteenth Amendment have been laid down by case law for many years. Yet conditions similar to those found in Choctaw County still exist. It is this continued violation of the Fifteenth Amendment which strains the Federal-State relations, and this strain can be alleviated only by action which vigorously and decisively puts an end to discrimination in the voting processes. It lies in the powers of the courts to give that relief which is necessary to eliminate racial discrimination in the voting processes once the discrimination has been proven to exist. The relief which is required in this case is one which will permit the registration of all persons without distinction of race. To accomplish this the decree should specifically outline to the registrars what is required of them under federal law, and thus permit registration to continue on a local level.

CONCLUSION

For the reasons set forth in this Brief, the plaintiff requests this Court to enter judgment in accordance with plaintiff's proposed decree.

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO. 2829
)	
v.)	<u>PLAINTIFF'S PROPOSED</u>
)	<u>FINDINGS OF FACT AND</u>
)	<u>PROPOSED CONCLUSIONS</u>
C. E. FORD, ET AL.,)	<u>OF LAW</u>
)	
Defendants.)	
)	

1. This suit was filed by the Attorney General of the United States on June 15, 1962 under the Civil Rights Act of 1957, as amended (42 U.S.C. 1971). The Complaint charged the State of Alabama and the Board of Registrars of Choctaw County, Alabama, with having engaged in racially discriminatory acts and practices in the registration of voters.

2. The defendants in this suit are the State of Alabama and the members of the Board of Registrars of Choctaw County, Alabama. Defendants Raymond Lee and Katie Keahey have served continuously as members of the Board of Registrars of Choctaw County since November, 1959. Defendant Charles Ford was appointed as a member and chairman of the Board in November, 1962 and replaced Mr. Roswell Doggett who had resigned as a member of the Board. On February 14, 1963,

Mr. C. E. Ford was substituted as a defendant in this case pursuant to the order of this Court under Rule 25(d) of the Federal Rules of Civil Procedure.

3. Alabama law provides that registration is a prerequisite to voting in any election in the state. Registration is permanent so that persons who are once registered are not required to re-register. The substantive qualifications for registration under Alabama law are:

- a. The applicant must be a citizen and 21 years of age or older;
- b. The applicant must have resided in the state one year, in the county six months and in his voting precinct three months prior to any election in which he seeks to vote;
- c. The applicant must be able to read and write any article of the United States Constitution which may be submitted to him by the board of registrars;
- d. The applicant must be of good character and he must embrace the duties and obligations of citizenship;
- e. The applicant is disqualified from voting if he is an idiot or insane person, or if he has been convicted of any of several enumerated crimes.

4. Since November 9, 1959, the defendant members of the Board of Registrars of Choctaw County have used the Application for Registration, Questionnaire and Oath, which is prescribed by law, for determining whether an applicant is qualified for registration to vote. The Board basis its determination of whether the applicant is qualified solely upon the information and answers contained on the applicant's application form. The Board does not go to sources of information outside of the application form in making its determination except occasionally where the applicant has been convicted of a disqualifying crime. The Board requires that a supporting witness for the applicant fill out the Examination of Supporting Witness on the form; but does not require the applicant to read and write any article of the United States Constitution.

5. The defendant registrars generally meet to receive applications for registration at the Courthouse in Butler, Alabama on the first and third Monday of each month. During these registration days they receive applications between 8:00 a.m. and 4:00 p.m., with a short time out for lunch, although on particularly busy days they have worked until 6:00 p.m., receiving applications for registration. The registrars have used their own office and an adjoining room in processing applicants and on busy days the registrars have used their facilities

to enable as many as from 20 to 30 applicants to fill out application forms simultaneously. On February 1, 1960, the registrars received and acted upon 72 applications for registration. The registrars permit rejected applicants to reapply for registration to vote as often as they desire without waiting any specific period of time between applications. In the fall of the odd numbered years the registrars conduct registration to vote in the precincts and among those places used to conduct registration while in the precincts the registrars have used the homes, community centers and stores of white persons.

6. Choctaw County, Alabama, has a voting age population of 9,174 of which 5,192 are white persons and 3,982 are Negroes. The list of registered voters in Choctaw County maintained by the Judge of Probate shows that as of February 5, 1963 there were 3,697 white persons and 176 Negroes registered to vote. Of those Negroes who are currently registered 137 were registered prior to November 9, 1959 including five who were registered prior to 1952.

7. Between November 9, 1959 and February 5, 1963 the defendant registrars registered 782 white applicants and rejected two applications filed by white applicants. During this same period the registrars registered 42 Negroes and rejected 260 applications filed by Negroes.

During the entire period of the tenure of the current Board of Registrars, that is, from November, 1959 to the trial of this suit on February 20, 1963, the defendants engaged in racially discriminatory acts and practices in conducting the registration of voters in Choctaw County. These acts and practices are:

- a. The defendant registrars have used the application form as a strict examination or test for Negro applicants but not for white applicants. This has resulted in the denial of registration to Negroes because of technical and inconsequential errors and omissions made by them in completing their applications; while white applicants have been accepted for registration although their application forms contained identical or similar errors and omissions. 190 of the applications of white persons who were registered by the defendants contain errors or omissions which were identical or similar to those errors or omissions for which Negro applicants were rejected.
- b. The defendant registrars have followed the practice of rendering assistance to white applicants in

in completing their applications while not rendering such assistance to Negro applicants. The result is that the applications of white persons generally appear to meet the technical grading standard by which the defendants reject the applications of Negroes.

Less than 1% of the applications filed by white applicants have been rejected while 86% of the applications filed by Negro applicants have been rejected.

Assistance is given to white applicants during all stages of the registration process. The registrars offer assistance to the white applicants when the applicants receive their application forms; the registrars give assistance to white applicants while they are filling out their forms; they permit white applicants to receive assistance in filling out their forms from other persons; and the registrars review the applications of white persons when the applications are submitted and call the applicants' attention to errors or omissions on their forms and permit the white applicants to correct the errors and to supply the omitted information. White applicants are

assisted in changing incorrect to correct answers on any of the many questions on the form including the more difficult questions such as "Will you give aid and comfort to the enemies of the United States Government or the government of the State of Alabama:" and "Do you regard those duties and obligations [of citizenship] as having priority over the duties and obligations you owe to any other secular organization when they are in conflict:"

- c. The defendant registrars have refused to render assistance to Negro applicants at any stage of the registration process and have rejected them for errors or omissions on their forms. The registrars have not offered assistance to Negro applicants when giving them application forms and have not offered to assist or assist^{ed} Negroes while they were filling out their forms. The registrars instead have instructed Negro applicants that they could not talk while filling out their forms. They have not reviewed the applications in the presence of Negroes when their applications are submitted nor have they permitted Negro applicants to correct any errors or

omissions on their forms. The defendant registrars have refused to inform rejected Negroes of the specific reason for their rejection when rejected Negroes have sought this information. The registrars have thus refused to help rejected Negro applicants learn what they must do differently in order to have the registrars accept their applications.

- d. The defendant registrars reject Negro applicants but not white applicants for their failure to sign an oath to support and defend the constitution. They assist white applicants to insure that the white applicants sign the Oath on their applications but fail to give the same assistance to Negro applicants. Instead, the defendant registrars reject Negro applicants for inadvertently failing to sign the Oath.
- e. The applications of highly educated and qualified Negroes have been rejected by the defendant registrars on the ground that these applications were improperly filled out. The defendant registrars have rejected 44 applications filed by Negro applicants who have graduated

from or attended college. White applicants with little or no education have been registered by the defendant registrars during this same period.

- f. The defendant registrars insure that white applicants have a supporting witness to sign their applications and the registrars have helped white applicants obtain supporting witnesses when necessary. The registrars have not helped Negroes in this regard. About 50% of the applications of white persons have been signed by supporting witnesses who work in offices in the courthouse where the registration office is located; none of these same persons have signed the applications of Negroes as supporting witnesses. No white applicant has failed to obtain a supporting witness while the "Examination of Supporting Witness" portion of the application is not filled out on 33 applications filed by Negroes. The Board does not review an application in order to determine whether the applicant is qualified for registration to vote until a supporting witness has signed the application form.

- g. The defendant registrars have issued registration certificates to white applicants at the time they apply for registration. The registrars have not reviewed the applications of Negroes when they submitted their applications and do not inform the Negro applicants when they apply that they are accepted or rejected for registration to vote.
- h. The defendant registrars have not notified rejected Negro applicants of the fact of their rejection or of the specific reason for their rejection. Rejected applicants are informed of their rejection only by inquiring of the Board at a later date as to what action has been taken on their applications. Because white applicants are never rejected this practice operates to the disadvantage of Negroes only.

9. From January, 1952 to November, 1959, 1,697 white persons were registered to vote in Choctaw County, while only 192 Negroes were registered to vote. During this period the application form was also not used as an examination for white persons and they were registered although their application forms contained many errors or omissions. The testimony shows that during this same period qualified

Negroes applied for and were denied registration.

^{fact that} The ^{were destroyed} rejected applications during this period also

^{raises} ~~raised~~ an inference of discrimination. There is no evidence that any white person was denied registration during this period.

10. The Court specifically finds that the Negro applicants listed in Appendix I attached hereto and incorporated herein, applied for registration to the Board of Registrars of Choctaw County, Alabama since November 9, 1959, and that each was, at the time of his application, denied registration on account of his or her race or color, and that each was, at the time of his or her application, qualified to register to vote under the laws, practices, customs and usages followed and applied by the Board of Registrars of Choctaw County, Alabama.

11. The defendants and their predecessors having engaged in the discriminatory acts and practices set forth in findings 8 and 9 have deprived Negro citizens in Choctaw County, Alabama of their right to register to vote without distinction of race or color. Such deprivations have been and are pursuant to a pattern and practice of racial discrimination.

PROPOSED CONCLUSIONS OF LAW

1. This Court has jurisdiction of this action under 42 U.S.C. 1971(d) and under 28 U.S.C. 1345.

2. The Attorney General is authorized to institute this action on behalf of the United States under 42 U.S.C. 1971(c) to obtain preventive relief against acts and practices by the defendants which would deprive other persons of rights and privileges secured by 42 U.S.C. 1971(a).

3. The State of Alabama is properly joined as a party defendant pursuant to Section 601(b) of the Civil Rights Act of 1960, 42 U.S.C. 1971(c).

4. Acts and practices of the defendant registrars which violate 42 U.S.C. 1971(a) are also the acts and practices of the defendant State. Civil Rights Act of 1960, Sec. 601(b).

5. 42 U.S.C. 1971(a) forbids any distinctions in the voting process, including registration for voting based upon race or color.

6. The fact that the defendant registrars have over a three year period rejected 86% of the applications of Negroes and have accepted 99% of the applications of white persons creates the presumption that Negro citizens have been deprived of the right to vote without distinction of race or color; and, in the absence of proof by the defendants that the rejected Negroes are not qualified under the standards and requirements applied to the accepted white persons, the plaintiff is entitled to the relief it seeks.

7. The use of the application form as a test for Negro applicants but not for white applicants is in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

8. The practice of denying registration to Negro applicants on account of errors or omissions on their application forms while registering white applicants who have made similar errors or omissions on their applications is in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

9. The practice of denying registration to applicants on account of errors or omissions on their application forms where, despite these errors and omissions, their applications show them to possess all of the substantive qualifications and none of the disqualifications under Alabama law, is arbitrary and in violation of the due process clause of the Fourteenth Amendment.

10. The practice of failing to give assistance to Negro applicants in filling out their application forms in the same manner and to the same extent that white applicants are given assistance is in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the United States.

11. The practice of denying registration to Negro applicants on account of their inadvertent failure to sign an oath is arbitrary and a denial of due process of law under the Fourteenth Amendment.

The registrars who are the oath givers have a duty to determine whether each applicant is willing to sign the oath and, if he is, to have him sign it.

12. The failure and refusal by the defendants to notify applicants for registration of the action taken by the Board on their applications and to notify rejected applicants of the specific reasons for their rejection is a denial of due process of law under the Fourteenth Amendment to the Constitution of the United States.

13. The practice of helping white applicants to secure supporting witnesses while not giving similar help to Negro applicants and refusing to pass upon the qualifications of the applicants until after their applications have been signed by supporting witnesses is a discrimination in violation of 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments to the Constitution of the United States.

14. The practice of conducting registration at the homes, stores and community centers owned and occupied exclusively by white persons inevitably deters Negroes in Choctaw County from making application for registration at those precincts, and therefore, violates 42 U.S.C. 1971(a) and the Fourteenth and Fifteenth Amendments of the Constitution of the United States.

15. Evidence relating to the registration of voters and to the practices of registrars of voters during periods prior to the tenure of the defendant registrars is admissible in suits brought under 42 U.S.C. 1971 because it is material and relevant to

a showing of a long continued pattern or practice of discrimination, and because the state is a defendant.

16. Under 42 U.S.C. 1971(d) this Court is authorized to order the defendants to register specific individuals where the Court has found that such individuals have been discriminated against on account of their race, and that they possessed all of the qualifications and none of the disqualifications to register at the time they applied for and were denied registration by the defendants.

17. Negro citizens of Choctaw County are "otherwise qualified by law to vote" within the meaning of 42 U.S.C. 1971(a) if they possess all of the qualifications and none of the disqualifications under Alabama law, or those qualifications and disqualifications actually applied by the Board of Registrars of Choctaw County in registering other persons.

18. The Negro citizens of Choctaw County listed in Appendix II were qualified by law to vote at the time of their rejected applications for registration as found in Finding No. 10.

19. The action of the defendants in refusing to register the Negroes named in Appendix II, having been taken in violation of the Fifteenth Amendment and 42 U.S.C. 1971(a); was null, void, and ineffective for any purpose, and these names were illegally withheld from the list of registered voters of Choctaw County.

20. Under the Fifteenth Amendment and Section 1971(a) of Title 42 U.S.C. the defendants have a duty

to process applications for voter registration in Choctaw County without regard to race or color.

Where, as is established by the evidence in this case, a majority of one race is already registered while but a small minority of the other race has succeeded in registering, the general constitutional and statutory duty of the defendants requires that they process applications by members of the less favored race fairly and without undue delay. With this long continued history of racial discrimination in the registration process, defendants may not adopt new and more stringent registration standards the effect of which is to perpetuate past discrimination.

A P P E N D I X I

This Appendix sets forth the names of 49 Negroes who on one or more occasions since November 9, 1959 have applied for and been denied registration to vote in Choctaw County, Alabama. None of these persons was registered to vote as of February 5, 1963.

Each applicant filed one or more applications which show that the applicant possesses all of the qualifications and none of the disqualifications for registration to vote which have been applied in Choctaw County. Each such application was also signed by a supporting witness.

This Appendix sets forth the name of each of the 49 Negro applicants, the Plaintiff's Exhibit A numbers of the applications which he filed and which were rejected since November 9, 1959 and certain information obtained from the rejected application which shows the applicant meets the requirements for registration.

Adams, Levord	A-4001	His application form shows that he is 24 years old and that his address is P.O. Box 27, Silas, Alabama. He has lived in Alabama and in Choctaw County since 1939. He is employed in a shipping department. (See Pl. Ex. A-4001)
Blonks, Lucille	A-4016 A-4017	Her application form shows that she is 40 years old and lives at Mt. Sterling, Alabama. She has resided in Alabama and in Choctaw County since 1923. She is employed as a housemaid. (See Pl. Ex. A-4016)
Brooks, Theodore	A-4019	His application form shows that he is 56 years old and lives at Womack Hill, Alabama. He has resided in Alabama and in Choctaw County all of his life. He is a veteran and works in a trucking business. (See Pl. Ex. A-4019)
Carter, Gertrude M.	A-4028 A-4029	Her application form shows that she is 35 years old and that she lives in Lisman, Alabama, where she has resided since her year of birth, 1928. She is employed as a school teacher. (See Pl. Ex. A-4028)
Crowell, Jr., Arthur	A-4037	His application form shows that he is 26 years old and that he resides at Route 1, Box 93A, Butler, Alabama. He was born at Mt. Sterling in Choctaw County and has resided at Butler, Alabama for the last six years. He is a veteran of the Armed Forces, and works in the pulpwood business. (See Pl. Ex. A-4037)

Dickinson, Alice	A-4038	Her application form shows that she is 31 years old and that she lives at Route 2, Box 197, Butler, Alabama. She has lived in both Alabama and Choctaw County since her birth in 1932. She is a school teacher. (See Pl. Ex. A-4038)
Dickinson, Mellie M.	A-4043 A-4044 A-4045	Her application form shows that she is 59 years old and that her address is Route 2, Box 197, Butler, Alabama. She has resided in Alabama and Choctaw County since 1904 and is employed as a school teacher. (See Pl. Ex. A-4044)
Dixon, Louise T.	A-4046	Her application form shows that she is 33 years old and that her address is Route 1, Box 122, Millry 5, Alabama. She has lived in the State of Alabama and in Choctaw County since 1930. She is employed as a school teacher. (See Pl. Ex. A-4046)
Dothard, Sylvia L.	A-4049 A-4050 A-4051	Her application form shows that she is 43 years old and that her address is Route 1, Box 41, Butler, Alabama. She was born in Alabama and has lived in Choctaw County since 1919. She works as a nurse. (See Pl. Ex. A-4049)
Everett, Jr., Jim	A-4056 A-4057 A-4058	His application form shows that he is 52 years old and that he lives at Silas, Alabama. He has lived in Alabama and in Choctaw County since 1911. He is a veteran and works as a truck driver. (See Pl. Ex. A-4058)

Fail, Sarah E.	A-4071	Her application form shows that she is 24 years old and that her address is P. O. Box 32, Silas, Alabama. She has resided in Choctaw County since her birth in 1939. She is a school teacher. (See Pl. Ex. A-4071)
Ford, Beatrice	A-4074	Her application form shows that she is 24 years old and that her address is Route 1, Box 52, Yantley, Alabama. She was born at Yantley in Choctaw County in 1938 and has resided there since birth. She is not employed. (See Pl. Ex. A-4074)
Ford, John L.	A-4075	His application form shows that he is 31 years old and that his address is Route 1, Box 52, Yantley, Alabama. He has resided in the State of Alabama and in Choctaw County since 1934. He is a veteran and is employed as a pulpwood cutter. (See Pl. Ex. A-4075)
Gaines, Eddie G.	A-4076 A-4077	His application form shows that he is 33 years old and that he lives at Yantley, Alabama. He has lived in the State of Alabama and in Choctaw County since 1929. He is a veteran and is not employed. (See Pl. Ex. A-4077)
Gray, Malet, Jr.	A-4086	His application form shows that he is 25 years old and that his address is Route 1, Box 150, Toxey, Alabama. He has resided in Choctaw County since his birth in 1938. He works at the General Box Company. (See Pl. Ex. A-4086)

Hampton, Josephine	A-4087	Her application form shows that she is 26 years old and that her address is Route 1, Box 22, Butler, Alabama. She was born in Marengo County, Alabama in 1937. Her answer to Q7(3) on her form shows that she has lived in Choctaw County for at least the last five years. The supporting witness states the applicant has lived at Butler, Alabama for at least four years. She is a housewife. (See Pl. Ex. A-4087)
Hampton, Willie	A-4089	Her application form shows that she is 24 years old and that her address is Route 1, Box 70, Pennington, Alabama. She has lived in Choctaw County, State of Alabama since 1939. She is a housewife. (See Pl. Ex. A-4089)
Harrison, Emma	A-4090 A-4091 A-4092	Her application form shows that she is 27 years old and that her address is Route 1, Box 2A, Yantley, Alabama. She has lived in Alabama and in Choctaw County since 1939. She is not employed. (See Pl. Ex. A-4091)
Holcombe, Mack H.	A-4105 A-4106 A-4107 A-4108 A-4109	His application form shows that he is 41 years old and that he lives at Yantley, Alabama. He has lived in the State of Alabama since 1922 and in Choctaw County since 1947. He is a farmer and is a veteran of military service. (See Pl. Ex. A-4106)
Holcombe, Oscar	A-4110 A-4111 A-4112 A-4113 A-4114	His application form shows that he is 61 years old and that his address is Route 1, Box 13, Yantley, Alabama. He has lived in Choctaw County since 1945. He is a farmer. (See Pl. Ex. A-4113)

Horn, Quentin Z.	A-4119	His application form shows that he is 38 years old and that his address is P. O. Box 145, Lisman, Alabama. He has lived in Alabama since 1925. His application shows that he was born in Choctaw County and that he has lived in Lisman for at least the last 5 years. The supporting witness states that the applicant has lived in Lisman for at least 18 years. He is a veteran of military service and works at the Marathon Southern Corporation. (See Pl. Ex. A-4119)
Howard, Susie	A-4122	Her application form shows that she is 57 years old and that she lives at Melvin, Alabama, in Choctaw County, and has resided there for at least the last five years. The supporting witness states the applicant has lived in Melvin for at least four years. She is a housewife. (See Pl. Ex. A-4122)
Howard, Tilman	A-4123	His application form shows that he is 81 years old and that his address is Route 2, Box 46, Gilbertown, Alabama. He has lived in Alabama since 1882. He was born in Choctaw County and his form indicates that he has lived there all of his life. The supporting witness states the applicant has lived in Choctaw County for at least 30 years. He is a farmer. (See Pl. Ex. A-4123)
Irvin, Ruth	A-4124	Her application form shows that she is 52 years old and that her address is Route 2, Butler, Alabama. She was born in Choctaw County and has lived there all of her life. She works as a maid. (See Pl. Ex. A-4124)

Jackson, Jr., Ellis	A-4127 A-4128 A-4129	His application form shows that he is 30 years old and that his address is Route 1, Box 87, Toxey, Alabama. He has lived in Alabama and Choctaw County since 1933. He is a farmer. (See Pl. Ex. A-4127)
James, Minnie B.	A-4134	Her application form shows that she is 71 years old and that she lives at Lisman, Alabama. She has lived in Alabama and Choctaw County since 1929. She is a housewife. (See Pl. Ex. A-4134)
Johnson, Frank	A-4141	His application form shows that he is 67 years old and that his address is P. O. Box 209, Lisman, Alabama. He has resided in Alabama and Choctaw County since 1947. He works as a lumber inspector. (See Pl. Ex. A 4141)
Johnson, Goldie L.	A-4143	Her application form shows that she is 35 years old and that her address is Route 1, Box 124, Silas, Alabama. Her answer to Q7(3) states she has lived in Silas, Alabama for at least the last five years. The supporting witness states that she has lived in Silas for at least eight years. She is a housewife. (See Pl. Ex. A-4143)
Johnson, Norman	A-4151	His application form shows that he is 68 years old and that he resides at Route 1, Box 162, Silas, Alabama. He was born in Silas in 1895 and has resided in the County since then. He states on his application form to have become a bona fide resident of the State of Alabama in 1916 and his form shows that he meets the residence requirements. He is a veteran of the military service. (See Pl. Ex. A-4151)

Jordan, Edna Mae	A-4158	Her application form shows that she is 41 years old and that she lives in Pennington, Alabama, in Choctaw County. She has lived in Alabama since 1912. She was born in Pennington, and her application indicates that she has lived in Pennington for at least the last five years. The supporting witness states she has lived in Pennington for at least four years. She is a housewife. (See Pl. Ex. A-4158)
Keeton, Green B.	A-4159 A-4160 A-4161 A-4162	His application form shows that he is 80 years old and that he lives at Yantley, Alabama. He has lived in Alabama and Choctaw County since 1883. He is a farmer. He states in answer to Q12 "I was convicted of assault and battery and I was forgiven." (See Pl. Ex. A-4162)
McGrew, A. C.	A-4175	His application form shows that he is 46 years old and that his address is Route 1, Box 183, Silas, Alabama. He is a farmer and a veteran of military service. Although he listed his date of application as the date he became a bona fide resident of the State of Alabama, in answer to Q3 the applicant states he has lived in Silas, Alabama for at least the last five years. The supporting witness states the applicant has lived in Silas, Alabama for at least 35 years. (See Pl. Ex. A-4175)
Mason, Marie B.	A-4185	Her application form shows that she is 37 years old and that her address is Route 1, Box 9, Butler, Alabama. She has lived in Alabama and in Choctaw County since 1936. She is a school teacher. (See Pl. Ex. A-4185)

Matthews, Lugene E.	A-4186 A-4187 A-4188	Her application form shows that she is 33 years old and that her address is Route 1, Box 138, Riderwood, Alabama. She has lived in the State of Alabama since 1930 and in answer to Q3 states that she has lived in Choctaw County for the past five years. The supporting witness states the applicant has lived in Riderwood for at least six years. She is a school teacher. (See Pl. Ex. A-4187)
Moss, Elmira	A-4192 A-4193	Her application form shows that she is 37 years old and that her address is P. O. Box 293, Butler, Alabama. She has lived in Alabama and Choctaw County since 1926. She is a maid. (See Pl. Ex. A-4192)
Parker, Lurenia F.	A-4197	Her application form shows that she is 71 years old and that her address is Route 1, Box 104, Gilbertown, Alabama. She has lived in Alabama and Choctaw County since 1892. She is a housewife. (See Pl. Ex. A-4197)
Pringle, Oliver	A-4200 A-4201 A-4202 A-4203 A-4204 A-4205 A-4206 A-4207 A-4208 A-4209 A-4210 A-4211 A-4212 A-4213 A-4214 A-4215 A-4216 A-4217	His application form shows that he is 70 years old and that he lives at Yantley, Alabama. He has lived in Alabama and Choctaw County since 1893. He is a farmer. (See Pl. Ex. A-4207)

Roberts, Lucinda	A-4224	Her application form shows that she is 41 years old and that her address is P. O. Box 192, Lisman, Alabama. She was born at Mt. Sterling and states in her answer to Q9(3) that she had lived at Lisman, Alabama for at least the last five years. The supporting witness states the applicant has lived in Lisman, Alabama for at least 20 years. She is not employed. (See Pl. Ex. 4224)
Roberts, Theado	A-4225	His application form shows that he is 43 years old and that he lives at Cromwell, Alabama. He has lived in Alabama since 1920. He was born in Choctaw County and his answer to Q3 shows that he has lived in Cromwell for at least the last five years. The supporting witness states the applicant lived in Cromwell, Alabama for at least 29 years. He is a farmer and a veteran of military service. (See Pl. Ex. A-4225)
Ruffin, John L.	A-4230	His application form shows that he is 33 years old and that he lives at Pushmataha, Alabama. He has lived in Alabama and Choctaw County since 1930. He is a farmer. (See Pl. Ex. A-4230)
Ruffin, Martin V.	A-4233 A-4234 A-4235	His application form shows that he is 61 years old and that his address is Route 1, Box 37, Riderwood, Alabama. He has lived in Alabama and Choctaw County since 1902. He is a farmer. (See Pl. Ex. A-4234)

Tanks, Mae Ola	A-4240	Her application form shows that she is 33 years old and that she lives at Halsell, Alabama. She was born in Choctaw County in 1930. Her answer to Q3 shows that she has lived in Halsell for at least the last five years. The supporting witness states she has lived at Halsell at least four years. She is a housewife. (See Pl. Ex. A-4240)
Tartt, Richard	A-4242	His application form shows that he is 27 years old and that his address is Box 145, Bolinger, Alabama. He has lived in Alabama and Choctaw County since 1936. He is a laborer. (See Pl. Ex. A-4242)
Taylor, Minnie B.	A-4244	Her application form shows that she is 43 years old and that she lives at Lisan, Alabama. She has lived in the State of Alabama since 1920 and in Choctaw County since 1958. She is a school teacher. (See Pl. Ex. A-4244)
Turner, Lorine	A-4252	Her application form shows that she is 34 years old and that she lives at Gilbertown, Alabama. She has lived in Alabama since 1928 and was born at Toxey, Alabama in Choctaw County. Her answer to Q3 states she has lived in Gilbertown for at least five years. The supporting witness states the applicant has lived in Gilbertown for at least 31 years. She is a housewife. (See Pl. Ex. A-4252)

Underwood, Vernon A. A-4256

His application form shows that he is 27 years old and that his address is Route 2, Box 182, Butler, Alabama. His residence has been in Choctaw County, Alabama since 1960. Information given by the supporting witness is in conflict since it indicate the applicant has lived at Butler for at least two years and also that the applicant is a bona fide resident of Mississippi. The applicant states he has been a resident of Choctaw County since 1960 and testified to this effect during the hearing in this case. He is a school teacher and a veteran of military service. (See Pl. Ex. A-4256)

Wallace, Curvin A-4257
A-4258

His application form shows that he is 41 years old and that he lives at Pushmataha, Alabama. He has lived in Alabama and Choctaw County since 1912. He is a farmer. (See Pl. Ex. A-4257)

Washington, Jessie R. A-4261
A-4262
A-4263

Her application form shows that she is 33 years old and that her address is Route 1, Box 5, Melvin, Alabama. She has lived in Alabama and Choctaw County since 1930. She is a school teacher. (See Pl. Ex. A-4261)

Williams, Henry A-4264

His application form shows that he is 29 years old and that his address is Route 1, Butler, Alabama. He has lived in Alabama since 1934 and was born in Choctaw County. Q6(3) shows that he has lived at his present address for at least the last five years and the supporting witness states the applicant has lived in the county for at least four years. He is a pulpwood contractor and is a veteran of military service. (See Pl. Ex. A-4264)

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2829
)	
)	<u>PLAINTIFF'S PROPOSED</u>
C. E. FORD, ET AL.,)	<u>DECREE</u>
)	
Defendants.)	
)	

Pursuant to the Findings of Fact and Conclusions
of Law entered this date:

1. This Court finds specifically that the defendants and their predecessors have engaged in acts and practices which have deprived Negro citizens in Choctaw County, Alabama of the right secured by 42 U.S.C. 1971(a), and that the deprivation of this right has been pursuant to a pattern and practice of discrimination.

2. It is ORDERED, ADJUDGED AND DECREED that the defendants, the State of Alabama; Charles E. Ford, Raymond Lee and Katie Keahey, individually and as members of the Board of Registrars of Choctaw County, Alabama, their agents, officers, employees, successors in office and all persons in active concert with them

be and each is hereby enjoined from engaging in any act or practice which involves or results in distinctions of race or color in the registration of voters in Choctaw County, Alabama. Specifically, each of said defendants and persons is enjoined from:

- a. Applying different and more stringent registration qualifications, procedures, and standards to Negro applicants for registration than those which have been applied to white applicants since at least November 9, 1959 in determining whether or not such applicants were or are qualified to register to vote in Choctaw County, Alabama.
- b. Failing to register applicants who meet the following qualifications:
 - (1) He is a citizen of not less than 21 years of age;
 - (2) He has resided in the State, County, and precinct the required period;
 - (3) He is not disqualified by reason of bad character, conviction of a disqualifying crime, insanity or idiocy; and
 - (4) He is literate and is able to demonstrate his ability to read and write.
- c. Using the application form - the "Application for Registration, Questionnaire and Oath" - in any manner or for any purpose different from and more stringent than that for which it has been used in registering white persons since at least November 9,

1959. Specifically, the application form is to be used to obtain and record essential information from which it can be determined whether applicants possess the qualifications set forth in subparagraph b. The application form is not to be used as an examination or test except for literacy. No applicant whose application form demonstrates that he is literate shall be denied registration because of errors or omissions on his application form.

3. It is further ORDERED that said defendants in applying the above qualifications shall comply with the following standards and procedures:

- a. Applicants who possess these qualifications must be registered, and it is the duty of the registrars to determine whether the applicants possess these qualifications.
- b. If from the information contained on the application form the registrars are unable to determine whether the applicant possesses the qualifications of citizenship, age, residence and that he embraces the duties and obligations of citizenship or if they are unable to determine whether the applicant is disqualified by reason of bad character, conviction of a disqualifying crime, insanity or idiocy, then the registrars should obtain the necessary information either by pointing out the deficiency to the applicant and permitting

him to supply the necessary information on his application form, or by questioning the applicant and noting the necessary information on his form. If the information supplied by the applicant on his application form disqualifies him from registration, the registrars shall call this fact to his attention to insure that the information is correct and if it is incorrect permit the applicant to correct his answers if he so desires. It is the duty of the registrars to determine whether the applicant is qualified for registration to vote and the registrars cannot justify the rejection of an applicant for reason that they have insufficient information about the applicant from which to determine whether the applicant is qualified, unless the applicant refuses to furnish the necessary information after the insufficiency has been called to his attention.

- c. The registrars are under a duty as the oath giver to insure that the applicant sign those parts of the oaths which the registrars require applicants to sign, unless the applicant refuses to do so.
- d. The applicant possesses the qualifications that he be literate if he is able to read and write. If the applicant's answers on the application form are legible and his answers on the application form demonstrate

that he read those questions which he answered, then he has satisfied the requirement that he be able to read and write. This determination must be one of reasonableness and fairness. The application form cannot be used as a test for the purpose or to form the basis of rejecting applicants if they are literate. Instead it must be used as a means to obtain essential information to facilitate the registration of applicants.

4. It is further ORDERED that the defendants shall pass on each application for registration filed and notify each applicant of the action by the registrars on his application for registration, whether accepted or rejected, within fifteen days of the date of application of each applicant, and if the applicant is rejected, to notify the applicant of the specific reason for his rejection. The registrars shall determine from each application within fifteen days of the date of application whether the applicant is qualified even though a supporting witness has not yet signed the applicant's form. Where the applicant is qualified and no supporting witness has signed his form the registrars shall notify the applicant that he will be registered upon the signing of his application by a supporting witness.

5. It is further ORDERED that the defendants, their agents, employees and successors, conduct registration in Choctaw County as expeditiously as possible and that registration in the precincts in odd-numbered years be conducted at places easily accessible to members of both races and that appropriate public notice be given within a reasonable time of the places where and the times during which registration will be held in the precincts.

6. It is further ORDERED that the said defendants, within ten days of the date of this decree place upon the current and permanent registration rolls of Choctaw County, Alabama, and any official copies thereof, the names of the Negro citizens listed in Appendix II, attached hereto and incorporated herein, unless, however, within the ten-day period defendants by affidavit, show to the Court that any such person should not be placed upon the rolls by reason of death, removal from the county, conviction of a disqualifying crime or subsequent registration; and

a. Within ten days of the date of this decree each person listed in Appendix II shall be notified that his name has been placed on the permanent Voter Registration Rolls of Choctaw County, Alabama, by mailing such person the appropriate certificate of registration.

b. The defendants shall file with the Clerk of this Court within fifteen days from the date of this decree a written report reflecting their compliance with this paragraph.

7. It is further ORDERED that the defendants submit to the Clerk of this Court in writing and a copy thereof to the plaintiff on or before the tenth day of each month after the date of this decree and until further order of this Court, a report as to their progress in receiving and processing applications for registration during the preceding calendar month. This report shall include:

(1) The dates and places applications were received during the preceding report period and the hours during which the registrars were available to receive applications.

(2) The action taken by the Board on applications for registration during the preceding report period which with respect to accepted applications will state the name and race of the applicant, date of application and the date the certificate of registration was mailed out, and with respect to rejected applications, the name and race of the rejected applicant, date of application, a duplicate copy of the notification of rejection, the reason therefor, and the date on which such notification was mailed to the applicant.

8. It is further ORDERED that said defendants preserve all applications for registration, registration books and other records relating to registration in Choctaw County,

Alabama and make these records available for inspection and photographing by agents of the United States at any and all reasonable times.

The costs incurred in this proceeding to date are hereby taxed against the defendants.

Done this _____ day of _____, 1963.

United States District Judge

A P P E N D I X I I

<u>Name</u>	<u>Address</u>
Adams, Levord	P.O. Box 27 Silas, Alabama
Blonks, Lucille	Mt. Sterling, Alabama
Brooks, Theodore	Womack Hill, Alabama
Carter, Gertrude M.	Lisman, Alabama
Crowell, Jr., Arthur	Route 1, Box 93-A Butler, Alabama
Dickinson, Alice	Route 2, Box 197 Butler, Alabama
Dickinson, Mellie M.	Route 2, Box 197 Butler, Alabama
Dixon, Louise T.	Route 1, Box 122 Millry 5, Alabama
Dothard, Sylvia L.	Route 1, Box 41 Butler, Alabama
Everett, Jr., Jim	Silas, Alabama
Fail, Sarah E.	P.O. Box 32 Silas, Alabama
Ford, Beatrice	Route 1, Box 52 Yantley, Alabama
Ford, John L.	Route 1, Box 52 Yantley, Alabama
Gaines, Eddie G.	Yantley, Alabama
Gray, Malet, Jr.	Route 1, Box 150 Toxey, Alabama
Hampton, Josephine	Route 1, Box 22 Butler, Alabama
Hampton, Willie	Route 1, Box 70 Pennington, Alabama

<u>Name</u>	<u>Address</u>
Harrison, Emma	Route 1, Box 2-A Yantley, Alabama
Holcombe, Mack H.	Yantley, Alabama
Holcombe, Oscar	Route 1, Box 13 Yantley, Alabama
Horn, Quentin Z.	P.O. Box 145 Lisman, Alabama
Howard, Susie	Melvin, Alabama
Howard, Tilman	Route 2, Box 46 Gilbertown, Alabama
Irvin, Ruth	Route 2, Butler, Alabama
Jackson, Jr., Ellis	Route 1, Box 87 Toxey, Alabama
James, Minnie B.	Lisman, Alabama
Johnson, Frank	P.O. Box 209 Lisman, Alabama
Johnson, Goldie L.	Route 1, Box 124 Silas, Alabama
Johnson, Norman	Route 1, Box 162 Silas, Alabama
Jordan, Edna Mae	Pennington, Alabama
Keeton, Green B.	Yantley, Alabama
McGrew, A. C.	Route 1, Box 183 Silas, Alabama
Mason, Marie B.	Route 1, Box 9 Butler, Alabama
Matthews, Lugene E.	Route 1, Box 138 Riderwood, Alabama
Moss, Elmira	P.O. Box 293 Butler, Alabama
Parker, Lurenia F.	Route 1, Box 104 Gilbertown, Alabama

<u>Name</u>	<u>Address</u>
Pringle, Oliver	Yantley, Alabama
Roberts, Lucinda	P.O. Box 192 Lisman, Alabama
Roberts, Theado	Cromwell, Alabama
Ruffin, John L.	Pushmataha, Alabama
Ruffin, Martin V.	Route 1, Box 37 Riderwood, Alabama
Tanks, Mae Ola	Halsell, Alabama
Tartt, Richard	Box 145 Bolinger, Alabama
Taylor, Minnie B.	Lisman, Alabama
Turner, Lorine	Gilbertown, Alabama
Underwood, Vernon A.	Route 2, Box 182 Butler, Alabama
Wallace, Curvin	Pushmataha, Alabama
Washington, Jessie R.	Route 1, Box 5 Melvin, Alabama
Williams, Henry	Route 1, Butler, Alabama